

# **NORMALIZING CORRUPTION**

## **FAILURES OF ACCOUNTABILITY IN UKRAINE**



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**ERIK S. HERRON**



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University of Michigan Press Ann Arbor

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Published in the United States of America by the University of Michigan Press  
Manufactured in the United States of America Printed on acid-free paper  
First published September 2020

A CIP catalog record for this book is available from the British Library.

Library of Congress Cataloging-in-Publication Data Names: Herron, Erik S., 1968- author.

Title: Normalizing corruption: failures of accountability in Ukraine / Erik S. Herron. Description: Ann Arbor: University of Michigan Press, 2020. | Series: Weiser Center for Emerging Democracies series | Includes bibliographical references and index. Identifiers: LCCN 2020013384 (print) | LCCN 2020013385 (ebook) | ISBN 9780472132140 (hardcover) | ISBN 9780472127146 (ebook)

Subjects: LCSH: Government accountability—Ukraine. | Political corruption—Ukraine. | Democratization—Ukraine. | Ukraine—Politics and government—1991-Classification: LCC JN6635.A55 A335 2020 (print) | LCC JN6635.A55 (ebook) |

DDC 364.1/32309477—dc23 LC record available at <https://lcn.loc.gov/2020013384> LC ebook record available at <https://lcn.loc.gov/2020013385>

Cover illustration: Screen-captured image from a video taken by the Ukrainian nongovernmental organization Chesno. Used by permission.

## *Series Editor*

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Digital materials related to this title can be found on the Fulcrum platform via the following citable URL: <https://doi.org/10.3998/mpub.11596348>



# ACKNOWLEDGMENTS

This book distills two decades of my research on Ukrainian politics. While it lists only one author, it is truly a collaboration with dozens of scholars, nongovernmental organizations, and government officials in the United States, Ukraine, and elsewhere. While I am responsible for any errors, omissions, or misinterpretations, I owe a great debt to these colleagues for many insightful observations and access to critical data.

My departmental colleagues at the University of Kansas (where I was on the faculty from 2001 to 2014) and West Virginia University (where I am currently on the faculty) always engaged me in valuable conversations, which sparked many of the ideas I explore in this book. At the University of Kansas, Paul Johnson and the late Ronald Francisco regularly talked with me about my research, providing constructive criticism and encouragement. At West Virginia University, I received valuable feedback from Jay Krehbiel, Mason Moseley, Matthew Wilson, and graduate students in the Comparative Politics Research Workshop. I am also grateful to the 2016 PONARS Eurasia Conference at the University of Helsinki, as well as discussants and audience members at several annual meetings of the Midwest Political Science Association and American Political Science Association for ideas that helped hone my arguments and push me to improve the analysis.

The book also benefited from two grants funded by the National Science Foundation, one grant funded by the United States Department of Defense's Minerva Research Initiative, and generous gifts from the Walter J. and Gail B. Woolwine Faculty Travel Fund. The first grant, with principal investigators Ellis Krauss, Robert Pekkanen, and Matthew Shugart (SES—0751662) focused on political-party personnel decisions and yielded valuable election data. The second grant generated data on election administration (SES—1462110). The Minerva Research Initiative project (N0001419-1-2456), funded by the Office of Naval Research, addresses how states bordering hostile neighbors maintain state capacity and provide civilian services such as election administration. I am a principal investigator on this research project, along with Cynthia Buckley and Ralph

Clem. The Wool-wine family's support for international research by WVU political science faculty allowed me to extend my work to encompass the most recent examples of vertical accountability: the election of President Volodymyr Zelensky and the victory of his party, Servant of the People, in 2019.

My research also benefited from the Fulbright Program and the opportunity to spend a semester at Ivan Franko National University in L'viv in 2007. I am grateful for the advice and support of Yurii Kyrylych, Viktor Krevs, Anatolii Romanyuk, and the late Yurii Shveda. I also worked on many of the papers that inspired this book during my tenure as a program director at the National Science Foundation (2011-2014). The NSF's Independent Research and Development support gave me time to advance my research while also serving as a program director.

Several people and organizations in Ukraine have been long-term partners on this project. I was fortunate to meet Nazar Boyko while I was on the Fulbright Fellowship in 2007. That interaction launched more than a decade of partnership on research about deputy requests, election administration, and electoral systems. His organization, CIFRA Group, and its staff (especially Roman Sverdau) have been essential collaborators. Due to my close association with CIFRA and its staff, I do not discuss its development and activities in detail, but it is one of the important civil society actors that I describe in chapter 5. Together with CIFRA, I was able to cooperate with the Kyiv International Institute of Sociology, the Central Electoral Commission of Ukraine, and the International Foundation for Electoral Systems on election administration research. This partnership has produced a substantial amount of research that informs the arguments in this book. I am also grateful to Oksana Stavniichuk, and the organization Chesno, who permitted me to use an image from one of their videos on the cover of this book.

The diplomatic and development communities also contributed to my research by supporting many visits to Ukraine. Brian Mefford and the Committee for Open Democracy, the International Republican Institute (and especially Chris Holzen), and the Organization for Security and Cooperation in Europe invited me to participate in eleven election

observation missions, which were critical to developing my understanding of electoral integrity in Ukraine. The Committee for Open Democracy also gave me access to observation data that provided crucial insights in chapter 3. Yarema Bachynsky welcomed me as a participant in the 2006 Strengthening Electoral Administration in Ukraine Project, where I interacted with students, academics, members of parliament, and members of the Central Electoral Commission in Feodosia, Ukraine. The United States Embassy in Kyiv supported a 2016 visit to discuss electoral system reform with the public, election administrators, and experts, and embassy staff members have given me additional support over the years.

While the analysis in this book is new, it draws on earlier work that I published with many colleagues, and I am grateful for their partnership over the years. In addition to Nazar Boyko and Roman Sverdan, whom I mentioned above, I worked closely with Brian Fitzpatrick, Maksym Palamarenko, Fredrik Sjöberg, and Michael Tunberg on articles related to legislative behavior, election fraud, and election administration that were published in *Electoral Studies*, *Election Law Journal*, *Eurasian Geography and Economics*, *Europe-Asia Studies*, *Governance*, *Party Politics*, and *Post-Soviet Affairs*. Brian and Michael, along with Maxwell Nimako, Ani Tepnadze, and Paige Wantlin, provided essential support while serving as research assistants in the WVU Department of Political Science. I also benefited from the incredible expertise of the Slavic Reference Service at the University of Illinois, especially the help of Joseph Lenkart.

Over the years, I have received valuable feedback from discussants and colleagues at conferences, workshops, and other gatherings. While this list is not exhaustive, I would like to thank Donna Bahry, Lowell Barrington, Cynthia Buckley, Ralph Clem, Paul D'Anieri, Geir Flikke, Henry Hale, Jonathan Harris, Ben Noble, Olga Onuch, Robert Orttung, Robert Pekkanen, Ora John Reuter, Anatolii Romanyuk, Todd Schafer, Matthew Shugart, Yurii Shveda, Brian Silver, Frank Tames, Julian Waller, and Andrew Wilson for their insights.

The University of Michigan Press has been extremely supportive of the book project. Dan Slater encouraged me to submit the manuscript to

the Weiser Center for Emerging Democracies (WCED) Series. I would like to especially thank my editor, Elizabeth Demers, and University of Michigan Press staff members Danielle Coty, Haley Winkle, and Kevin Rennells, along with copy editor Daniel Otis, all who expertly guided me through the process. I am also grateful to the anonymous reviewers for their helpful comments and recommendations.

My parents, Yvonne and Tomas, have always been a source of encouragement. My father passed away while I was working on this book, but would have been especially pleased to see it published by the University of Michigan Press. Finally, I am eternally thankful for my family's support and patience. Lea and Carter inspire me to do my best.

# Introduction

In November 2004, I found myself in the middle of a massive public revolt that would fundamentally change how I thought about my research. I had traveled to Ukraine as an international election observer and personally witnessed efforts to steal the election in the southeastern region of Kherson. On my return to the capital city, Kyiv, <sup>1</sup> I learned that falsification was widespread, prompting hundreds of thousands of people to mobilize and challenge the regime.

After walking among scores of citizens who had occupied Kyiv's central square (Independence Square, or Maidan Nezalezhnosti) following the fraudulent presidential election, I began to approach protesters to better understand what motivated them to risk their personal safety and professional futures when success was not guaranteed. When I asked "Why are you here protesting?" they consistently answered, "So that I..., " **or** "my children..., " **or** "my grandchildren... can live in a normal country" When I asked what a "normal country" was, they spoke about leaders following the same rules as citizens, and the ability of citizens to influence politics through an honest tabulation of their votes. While election fraud served as a catalyst for coming out into the street, these protesters were not just clamoring for a different president. They wanted accountability and an end to corruption.

Despite the inspiring beginning to this story, in which citizens standing together overcame an entrenched political machine and forced those in power to acknowledge their preferences, the intervening years have not honored that victory. Citizens, nongovernmental organizations, and many media professionals have made progress in changing "business as usual" in Ukraine, but corruption is still pervasive, from the highest levels of politics down to mundane daily activities.

The failure to adequately combat corruption has been exacerbated by an existential threat to Ukrainian sovereignty. After a period of democratic backsliding initiated by the 2010 presidential victory of Viktor Yanukovich, Ukrainian citizens once again rose up to hold leaders

accountable. The 2013-14 Euromaidan “Revolution of Dignity” resulted in the ouster of Yanukovich, but also provoked Russia to occupy and annex Crimea and to instigate war in the Donbas region. These events exposed Ukraine’s vulnerability and de facto isolation. While European and North American democracies expressed discomfort with Russia’s aggressive posture, the Ukrainian state largely had to defend itself. With Ukraine’s independence at stake, survival took precedence and battling corruption became a secondary priority. Instead of transitioning to a “normal” country where the rule of law and formal institutions are the most influential guides to behavior for the powerful and the weak, Ukrainian political and economic elites have “normalized” corruption in some of the institutions designed to control it.

Democratic societies often face challenges in getting people to vote, getting citizens to serve as election administrators, and getting legislators to vote in a coordinated way. These types of collective action problems are pervasive and a regular focus of the political science literature. Institutional mechanisms such as political parties are often cited as solutions to these collective action problems. An underlying assumption is that the resolution of collective action problems will not undermine the very outcomes they are designed to produce. Yet Ukraine’s post-Soviet and post-Orange Revolution history suggests otherwise. Many of the tools for formal accountability, such as elections, have become reliant on corrupt solutions to resolve collective action problems that permit them to function but pervert their intent.

Ukrainians have entered into a Faustian bargain by accepting entrenched corruption to ensure that institutions perform their basic functions. As in many deals with the devil, this pact requires a paradoxical arrangement whereby the very accommodations that are put in place to make institutions function also undermine the democratic quality of these institutions. I argue that this phenomenon is not uniquely Ukrainian, but helps us understand why democratic transitions may falter.

This book is about the struggle to build a “normal” society in Ukraine. Many Ukrainians in private life, in civil society, and in government service have assiduously worked to advance democratic accountability in

their country. These dedicated activists may bristle at my assertions that many anticorruption efforts have been ineffective. Through their hard work and sincere patriotism, society has made progress. Brave citizens have exposed government corruption and honorable civil servants have worked to improve public procurement, professionalize election administration, enhance the delivery of health care and other services, and improve the integrity of law enforcement. But the specter of corruption still haunts Ukraine from the highest levels down to street-level interactions between citizens and the state.

As I completed this manuscript in 2019, Ukrainians once again rose up to oust the political elite through elections. In April, Ukrainians elected as president a political newcomer, Volodymyr Zelenskyy.<sup>2</sup> Zelenskyy styled himself and his campaign after the character he played on a television program—a “servant of the people” who unexpectedly becomes an anticorruption crusader and president. In July, Zelenskyy’s new party, Servant of the People, won the most seats in parliamentary elections, creating the possibility of a new wave of reforms. However, Zelenskyy’s associations with the oligarch Ihor Kolomoyskyi, the lack of a well-developed party apparatus, and the diversity of views among new parliamentary deputies who ran as nominees for Servant of the People raise questions about the likelihood of long-term success in anticorruption efforts.

Arguably, more progress has been made at the lower levels of Ukrainian society than at the highest levels. Without progress at the top, however, the problems of endemic corruption cannot be resolved. Much of my analysis emphasizes the highest levels of political, economic, and social life because—as Ukraine’s Orange Revolution (2004) and Euromaidan Revolution of Dignity (2013-14) have shown—citizen mobilization against corruption falters when it is not fully integrated with attitudinal and behavioral changes at the top. As an outsider, I hope that the analysis in this book speaks to the real successes, but also honestly evaluates the failures. Ukraine has the potential to be an example of how to build accountability in a transitional society, but it also has the potential to serve as a cautionary tale.

## **Plan of the Book**

The book directly confronts the paradox of Ukraine's postcommunist political trajectory. While it has moved away from its authoritarian tradition to develop nascent democratic accountability tools, it has also adopted formal and informal practices with embedded corruption that undermine accountability. The narrative explicitly and implicitly asks:

- What are the fundamental building blocks of democracy and democratic political accountability?
- How do pretransition inheritances affect democratization efforts?
- What forms does accountability take and how can different types of accountability be successfully integrated into a system of governance?
- What circumstances lead political elites to enact arguably corrupt practices to make democratic institutions function, and how can the normalization of corruption be averted?

Chapter 1 launches the assessment of accountability by defining it; contextualizing it linguistically, socially, and historically; and outlining its mechanisms. The chapter begins by illustrating the deep roots of accountability in human societies and the evolution of the concept over time. It concludes with a discussion of how accountability varies based on the relationship between (or among) the actors and whether or not the relationship is defined by formal or informal rules.

Chapter 2 contextualizes questions about accountability, linking them to Ukraine's political history from the late Soviet period to the present. The chapter addresses how Ukraine developed formal political institutions, instituted elections, and established itself as an independent entity, but remained connected to Soviet-era politicians and practices. I consider the "legacy" of the Soviet system on contemporary Ukrainian politics, especially in the political networks and corrupt practices that have continued to insinuate themselves into society. The first two chapters introduce the argument that later chapters more carefully explore: in the effort to develop mechanisms of accountability, Ukraine has relied on



persistent, corrupt practices that undermine the effectiveness of oversight institutions. Understanding this failure is essential to meaningful evaluations of politics in Ukraine, as well as in other postcommunist states.

Chapter 3 investigates a primary form of accountability: vertical accountability via the election process. In principle, voters should be able to observe the behavior of elected representatives, rewarding those who perform well with re-election and punishing those who do not perform well with defeat. Although election quality has improved over time, Ukraine's elections often fall short of international standards. Citizens have regularly expressed a lack of confidence in election integrity. Expert analyses have raised questions about professionalism within the election administration apparatus. All of these issues raise concerns about elections as accountability tools. In addition, regularly changing election rules and political parties generates challenges for accountability. Many incumbent politicians have used the inchoate and poorly developed party system and the malleable rules to undermine accountability. At the same time, incumbent politicians often fail in their re-election bids, suggesting that Ukrainian citizens may be able to hold them accountable. The chapter provides an example of vertical, unidirectional accountability with both individual and collective actors.

Chapter 4 moves from vertical to horizontal accountability, investigating how politicians hold each other accountable. Every member of parliament is permitted to formally issue deputy requests: questions directed to national or local government agencies and other actors. The targets of questions are obligated to respond, although the quality of the response is not regulated. Some deputy requests seem to reflect efforts at constituency service while others seem to more directly focus on government oversight. While parliamentary deputies issue thousands of deputy requests, and the targets respond, the evidence suggests that they have not proved to be an especially effective method of modifying behavior. The chapter also introduces anticorruption institutions and discusses how accountability affects powerful, nongovernmental actors (i. e., oligarchs). The analysis in this chapter illuminates how horizontal accountability functions as a rather weak tool, emphasizing both individual and collective actors as well as reciprocal relationships.

Chapter 5 addresses diagonal accountability: how citizens work within vertical or horizontal accountability mechanisms. The chapter focuses on civil society and its effectiveness in monitoring—and altering—government behavior. I discuss the work of several civil society organizations, connecting them to the accountability process. Civil society was a key player in Ukraine’s crowning achievements in challenging entrenched power: the Orange Revolution and Euromaidan. Yet civil society faces greater challenges in altering mundane corruption, illustrated in the chapter by one organization’s efforts to limit proxy voting in parliament. Illicit proxy voting has become an essential mechanism by which the business of parliament is conducted. While anticorruption activists have attempted to hold officials accountable, they have also faced pushback from the state, suggesting that accountability is not unidirectional. The chapter emphasizes diagonal accountability, individual and collective actors, and reciprocal relationships.

Chapter 6 builds on the findings of the previous chapter, evaluating how corruption is integrated into systems of accountability. It moves from proxy voting in parliament to the election process. Election management has come to rely on corrupt practices to engage in its primary function: mobilizing administrators to implement free and fair elections. This chapter analyzes how the mobilization challenges facing election administrators have created a paradox: to staff all of the polling stations in national elections, ersatz parties are encouraged to participate. These **technical parties** provide necessary personnel to allow elections to function, but also introduce bias into the counting and certification processes. The compromises necessary to make elections occur may undermine their functions as vertical accountability mechanisms.

Chapter 7 assesses the development of new accountability mechanisms. Since Euromaidan, Ukraine has initiated several prominent efforts to introduce oversight. One of the most widely discussed is the creation of “e-declarations”—publicly accessible documentation of wealth among elected and appointed politicians. The chapter analyzes e-declaration data to evaluate how wealth is distributed among the elite. The vast wealth that politicians have accumulated suggests that formal mechanisms of accountability designed to regulate behaviors may have been ineffective.

The book concludes in chapter 8 with a discussion of accountability failures and the democratization process. I note that many failures of accountability grow from imperfect solutions to collective action problems, such as the use of technical parties arising from the need to recruit administrators and the use of proxy voting resulting from the need to produce legislators' votes. These imperfect, or corrupt, solutions become embedded in politics. While the prognosis seems grim, the concluding chapter also discusses potential avenues to introduce meaningful reforms that could enhance accountability in Ukraine and other transitional states. It also speaks to the potential for reforms to be advanced after the most recent election cycle in which a political neophyte and his affiliated party won substantial victories while promising to directly attack the problem of corruption.

# 1 How Accountability Works

Why do transitions away from authoritarian rule and toward democracy often falter or fail? <sup>1</sup> Scholars have puzzled over this question for decades. Although researchers have not reached consensus on the fundamental causes of successful democratization, theoretical and empirical work has emphasized the apparent need for citizens to embrace a political culture rooted in interpersonal trust, for societies to experience adequate economic development, and for nonstate organizations to constitute a robust civil society. In this book, I underscore the importance of political institutions, especially the establishment of reliable formal mechanisms of accountability, as crucial building blocks for democracy to take root and thrive.

The idea of accountability—an expectation that people who hold power should justify their decisions—is deeply embedded in human cultures. While the word’s origins may be traced back to French via Latin (Borowiak 2011), the roots of the modern concept emerged in eleventh-century England (Bovens 2007). The term “accountable” first appeared in the English language in a text that speaks of human accountability to God, dating to around 1387. By the middle to late fifteenth century, the term “accountable” encompassed officials and their responsibilities, especially in financial matters. <sup>2</sup> While the contemporary meaning of accountability can be traced to this time period in Europe, its roots extend back in time and place.

Even premodern societies that existed well before the age of sovereign states—and outside of Western Europe—developed practices to hold officials accountable to leaders and subjects. While many early rulers asserted that their power was divine and inviolable, their subordinates were not imbued with the same authority. Long before the development of contemporary democracies, laws all over the world and in different eras codified accountability practices. The ancient Babylonian Code of Hammurabi (ca. 1750 BCE) identifies several rules that define penalties for judges who do not uphold their decisions (§5), city governors who do not protect their subjects’ property (§22-§24), foremen or constables who shirk

responsibilities (§26), and officials who improperly take property (§34).<sup>3</sup> While many of the penalties for violating the Code are pecuniary, capital punishment is regularly invoked. Some punishments, however, look more like modern forms of accountability, including the loss of public office. The failure of a Babylonian judge to uphold a decision is punishable by both a monetary fine and expulsion from the assembly (§5). All of these aspects of the Code speak to the idea that officials must justify their actions and are subject to punishment if they fall short of expectations.

The first legal codes developed in Mesopotamia were not the only early accountability rules. Ancient Athenians who did not serve the Assembly appropriately were subject to ostracism, trial, fines, and prosecution (Elster 1999; Borowiak 2011).<sup>4</sup> Centuries later, under the rule of Henry VI in England (1422-1461), officials could be charged with a fine for producing falsified election returns (Statute 23, c. 14) (Cox 1868 [2005]). These punishments are notable because they link official misbehavior to punishment or loss of position; checking the behavior of officials has a long history.

Accountability practices can extend far beyond formal institutions. Even pirates—generally stereotyped as the antithesis of orderly—held captains accountable by deposing ineffective leaders and choosing new ones through elections. In a first-person account cited in Kuhn (2010, 31), “... the mutineers made a new election of another person to be our chief captain and commander, by virtue whereof they deposed Captain Sharp, whom they protested they would obey no longer” These pirates removed ineffective leaders and replaced them through a selection process akin to an election.

Philosophical and fictional narratives over the centuries have also illustrated accountability practices. Plato’s *Laws* identify a hypothetical election procedure by which citizens could challenge nominations for the election of officeholders (Szpiro 2010), providing a mechanism for individuals to hold candidates accountable. William Shakespeare referred to accountability in a later era: in *Henry V*, the titular king does not intervene for his friend Bardolph, who is executed for violating the rules of war. In the play, the rule of law trumps personal friendship and networks.

While none of these observations are intended to suggest that accountability practices were pervasive or ensured that the population could exert power over officials prior to the emergence of modern democracies, notions of accountability have been present for much of recorded human history. For most of this period, however, people were subjects of the ruling class rather than citizens able to exert individual rights. Over time, however, subjects were transformed into citizens as they gradually demanded more rights, which were codified in governing documents and respected by leaders in positions of authority. Modern democracies, emerging in a limited form in the eighteenth century and developing into the type of government we recognize today, with elections featuring universal adult suffrage as the cornerstone, prominently feature accountability.

The presence of accountability is implied in some definitions of democracy and is explicitly identified as a necessary condition in others. The quintessential “minimalist” definition of democracy, identifying democracy as emanating from a “competitive struggle for the people’s vote” (Schumpeter 1942, 269), suggests the importance of accountability. Indeed, Schumpeter explicitly addresses accountability, noting (1942, 272), “I intended to include in this phrase also the function of evicting [government]\_\_\_\_\_But since electorates normally do not control their political leaders in any way except by refusing to reelect them or the parliamentary majorities that support them, it seems well to reduce our ideas about this control. ” As social choice work would emphasize later, the primary function of elections is to provide an avenue for accountability (Riker 1982).

Schedler (1999, 14) deconstructs the concept of accountability into two essential components: “answerability” and “enforcement.” The former implies that there exists “an opportunity to ask uncomfortable questions,” and the latter implies that there exists “an obligation to respond.” This extension of accountability suggests the existence of formal mechanisms for inquiries that may be antagonistic. Moreover, the target of the question must answer even if it is “uncomfortable.” Schedler acknowledges the importance of other dimensions, such as horizontal or vertical relationships (O’Donnell 1998) that differentiate accountability induced by voting or by other formal oversight tools (Mainwaring and Welna 2003).<sup>5</sup>

In much of the literature, the primary mechanism for accountability comes through the ballot box; citizens exert minimal controls over officials between elections, but have the power to force them out of office via the ballot. Later definitions of democracy made more explicit the connection between democratic practices and accountability, but continued to focus on elections. For example, Robert Dahl's definition of "polyarchy," the observable form of ideal democracy,<sup>6</sup> requires political accountability: citizens are expected to have the ability to formulate and signify preferences, and government should be "responsive to the preferences of its citizens" (Dahl 1971, 2). Dahl further argues for the centrality of accountability by including the requirement that democracy feature "[institutions for making government policies [that] depend on votes and other expressions of preference" (Dahl 1971, 3). Other work connects democracy, voting, and accountability (e.g., Schmitter and Karl 1991; Persson, Roland, and Tabellini 1997; Przeworski, Stokes, and Manin 1999; Adsera, Boix, and Payne 2003; Carey 2009). Indeed, this relationship is a key foundation in social choice literature that rejects populist interpretations of the meaning of elections for those emphasizing accountability (Riker 1982).

Beyond elections, accountability is central to the functioning of democratic government. The study of bureaucracies, for example, emphasizes how leaders strive to hold civil servants accountable. A common approach in the study of bureaucracy is principal-agent theory, which develops expectations about why delegation of authority can yield suboptimal outcomes. When an actor (principal) retains another to act on her behalf (agent), information asymmetry and conflicting incentives can generate a lower-quality outcome for the principal due to an agent's shirking or manipulation. Oversight mechanisms (e.g., McCubbins and Schwartz 1984) may mitigate these losses, but the problems of accountability failures anticipated by principal-agent theory help to explain outcomes in parliamentary democracies (Huber 2000) and authoritarian states (Roeder 1993).

In sum, accountability *as a practice* has deep roots in human culture, and accountability *as a concept* has deep roots in social science literature. Both the practice and concept require an individual (or group) to be empowered to monitor and judge the behavior of another individual (or group),

rewarding compliant behavior and punishing noncompliant behavior. General notions of accountability existed before the age of democratic rule, but the modern sense of accountability is especially associated with regimes in which leaders are elected by citizens. How has this practice and concept “traveled” to Eastern Europe and Eurasia?

## **Accountability in Eastern Europe and Eurasia**

The extension of accountability—*pidzvitnist*’ in Ukrainian and *podotchetnost*’ in Russian—to Slavic-ruled lands may have its roots in governance reforms under Peter the Great in Russia.<sup>7</sup> Drawing on emerging practices in Western Europe, Russian government actions sowed the seeds of accountability by reducing the role of nobles, developing a meritocratic bureaucracy, instituting local elections, and even punishing high-ranking officials for dishonest practices (Massie 1980). But, like early forms in other societies, accountability was dictated by leaders rather than directed by the people. The execution of the governor of Siberia in 1718 for profiting from illicit business activities was probably associated more with his dishonoring of Peter the Great’s preferences and theft of state wealth than with any sense of obligation to the citizenry.<sup>8</sup>

While the Decembrist Revolt in 1825 and the Bolshevik Revolution nearly a century later reflect efforts to challenge state power and introduce a new social order, they were led by relatively small bands of elites. Bolshevik success transformed and widened the movement, with the Soviet Union claiming to have developed formal institutions of accountability in the 1936 Soviet Constitution. Soviet institutions, however, did not provide meaningful mechanisms for citizens to hold officials to task. The “selectorate”—the group of individuals whose support is essential for leaders to stay in power— was relatively small in the USSR and did not encompass most of the Soviet population (Roeder 1993).

Reforms instituted in the late Soviet period, under Mikhail Gorbachev, began to move the Soviet Union toward mechanisms of democratic accountability. Gorbachev talked openly about accountability at the XXVIIth Party Congress in 1985 and introduced multicandidate elections for positions in the newly formed Congress of People’s Deputies in 1989



(see chapter 2 for more detail). It was not until the collapse of the Soviet Union, however, that successor states could meaningfully develop democratic accountability tools.

Democratic and authoritarian systems feature a wide range of domains for accountability and actors who operate within these domains.

Karklins (2005) identifies several areas for accountability (electoral, governmental, legal, administrative, financial, public, professional, and international), and many actors who take the lead role in holding officials accountable (citizens, civil servants, judges, oversight bodies, professional associations, and foreign governments and organizations). The incentives driving these actors' behaviors may be defined and constrained by formal rules, but they may also respond to informal norms. It is especially at this nexus of formal rules and informal norms where questionable—sometimes corrupt—activities take place. It is also in this space where improper or unethical behaviors can be made routine, or “normalized.”

Informal rules and the persistence of a perceived legacy of the communist era (Pop-Eleches and Tucker 2017) especially influence behaviors in the postcommunist world (Karklins 2005; Wilson 2005; Ledeneva 2006).<sup>9</sup> The persistence of informal rules is explained, at least in part, by the arbitrary application of formal rules and the perception of selective punishment. Informal norms may serve as substitute mechanisms of accountability that work in concert with formal rules, but informal norms often work to subvert formal rules. Because of this feature, informal norms can be associated with corrupt actions.<sup>10</sup>

Several informal norms have survived the transition from communism and have been deployed in contemporary politics. An example that has recently been disseminated beyond the region is the practice of ***kompromat***. Not only is ***kompromat*** a regular part of political discussions in the postSoviet world, it has infiltrated commentary about the 2016 presidential election in the United States and parliamentary elections in Western Europe.

***Kompromat*** is a practice by which political and economic actors gather compromising information on rivals. This information may be based on real actions taken by the targets, entrapment efforts, or invented behaviors that

are portrayed as real. In all of these cases, the existence of ***kompromat*** is used to control or alter behavior.

***Kompromat*** has been most infamously deployed in Russia and other post-Soviet states to undermine public officials. In 1997, Russian Minister of Justice Valentin Kovalev was embroiled in a scandal when a videotape emerged depicting him with several prostitutes in a sauna owned by a criminal gang. The videotape was found in a banker's safe; the banker ostensibly collected the video to "encourage" Kovalev to close a case investigating the banker. The revelation of his activities caused Kovalev to resign his position.<sup>11</sup> This example illustrates the connection between informal actions and accountability in several ways. Some political observers argued that the primary reason the scandal emerged was that it was part of an effort to oust Kovalev. While he could be removed from the cabinet by other means, the scandal would be more effective to marginalize and permanently remove him from politics. Others noted that the banker's collecting the video implied an effort to avoid prosecution, likely via blackmail (Ledeneva 2006).

The pervasiveness of ***kompromat*** and the dissemination of the tactic worldwide suggest its normalization. "Normalization" is another critical concept in this book. It describes a process by which activities become accepted and insinuate themselves into formal processes. These behaviors may be mundane or they may be outrageous, but they share an initial status as unsanctioned or unacceptable activities. Gradually, often through repetitive, successful application, they become part of standard operating procedures. The use of ***kompromat***—especially the fabrication of materials designed to undermine public officials—has become a common practice in efforts to alter the behavior of candidates and officials, although it often overlaps with illegal or unethical behavior.

Thus, accountability can flow through formal institutions such as elections as well as informal norms and practices such as ***kompromat***. Further, informal practices can become accepted, or normalized, through repeated successful application. While formal and informal methods to make public officials responsive to constituent expectations and "answer uncomfortable questions" are not fully equivalent, they serve similar

functions. A critical moment in the transition from authoritarian rule to democratic governance is when inherited informal mechanisms are subordinated and formal mechanisms become privileged. While it is unrealistic to assert that informal rules are absent in societies with institutionalized democracies, formal rules and procedures should effectively guide the behaviors of public figures and private citizens for democracy to successfully function. Central to an effective consolidation of democratic governance is the subordination of informal lines of accountability to formal ones.

This discussion of the roots of accountability, its extension to Eastern Europe and Eurasia, and its manifestations in formal and informal mechanisms reveals several critical points. The concept of accountability initially focused on public servants and their relationship with leaders. The advent of democracy, in which leaders are elected officials who serve as agents of the voting public, introduced new formal methods to hold politicians accountable. The communist era also featured forms of accountability, both formal and informal, that have survived in the postcommunist period. Thus, when we discuss “accountability,” we must acknowledge the diversity of mechanisms as well as relationships among critical actors. The next section defines types of accountability more thoroughly.

### **Types of Accountability**

Much of the current literature strives to define accountability, identify the actors who can hold each other accountable, illustrate how formal and informal accountability functions,<sup>12</sup> and catalog mechanisms used to monitor, reward, and punish. At its core, accountability describes a condition in which an individual or collective actor is obligated to justify decisions to another actor, who may levy punishment for failures to take appropriate actions (Bovens 2007). The targets of accountability may be punished for the decisions or the response if they are deemed to be inappropriate or inadequate. In this way, accountability includes actors (individuals or groups), relationships (their connections), and power (one of the actors has the ability to access information to see if the other is

behaving, and to make the other comply either through punishment or removal from a position if they do not adequately comply).

Relationships are at the center of accountability and constitute connections between actors who are driven by personal and professional interactions and may be manipulated by familial, psychological, cultural, financial, or other currencies, which may be intangible or tangible. The mechanisms connecting individuals in these relationships are the conduits of accountability. The provision or withdrawal of benefits associated with connections, such as financial rewards or ostracism from a community, may be used to induce specific behaviors.

Recent scholarship illustrates that accountability relationships are multifaceted and complex. In his analysis of governance practices in Eurasia, Hale (2015) emphasizes the importance of patronal networks that include accountability relationships connecting state and private-sector actors. In his framework, each actor constitutes a “node” in a network linked to other actors through the provision or exchange of resources. Hale notes that the connections binding these actors may be eclectic, reflecting “different mixes of coercive and mutually beneficial” responses designed to hold another actor accountable for actions taken (or not taken). This section addresses the question, how can we further conceptualize these “mixes” and theorize about their effects on behavior?

At least three aspects of the connections between political actors must be carefully integrated to advance our understanding of accountability. First, actors in accountability relationships could be connected **vertically, horizontally, or diagonally**. Vertical accountability represents relationships between actors holding different levels of power and authority. Horizontal accountability represents relationships between actors holding roughly the same level of power and authority. Diagonal accountability incorporates intermediaries between the target of accountability and the actor holding the target accountable (Bovens 2007). The amount of leverage actors can exert may vary, depending on the strength or weakness of the tools at their disposal (Jones Luong 2002).<sup>13</sup> Second, they could be connected **individually** or **collectively** (Carey 2009), with the former identifying a single individual and the latter identifying a group. Third, they

could be connected *unidirectionally* or *reciprocally* (Roeder 1993), with the former denoting a relationship in which only one of the actors may hold the other accountable, and the latter denoting a relationship in which both actors have the capacity to hold each other accountable. The mix of these features may substantially affect the capacity of a network to monitor its members, mete out rewards and punishments, and maintain stability. Further, these mechanisms may be applied not only to actors situated in formal political institutions, but to informal networks situated outside formal institutions.

### ***Vertical, Horizontal, and Diagonal Accountability***

The first issue to address when assessing accountability relationships is the relative position of the actors to one another. Accountability is most commonly envisioned as a relationship between two actors in which one actor has more power than the other. In visualizations, the more powerful actor is generally situated “above” the less powerful actor, leading to the characterization of the relationship as “vertical” The more powerful actor can demand specific behaviors from the less powerful actor, monitor the relationship, and provide rewards or punishments based on compliance.<sup>14</sup> When the power relationships are lateral—the actors have equal power in the system—the interaction is characterized as horizontal.<sup>15</sup> The definitions of diagonal accountability vary, with some scholars emphasizing citizen efforts to encourage government watchdog agencies to more vigorously pursue their work and other scholars emphasizing the use of alternative institutional actors such as ombudspersons or third-party auditors to enhance accountability.<sup>16</sup>

A conventional example of “top-down” vertical accountability in formal, democratic politics is the relationship between a president and a member of the cabinet. Presidents often select their cabinet members and have the ability to dismiss noncompliant, incompetent, or otherwise problematic appointees. The president may set the expectation that his policies will be implemented by state agencies under the control of cabinet members. If the implementation does not meet the president’s expectations, the cabinet member may be removed from her post. For example, President Viktor Yushchenko dismissed Prime Minister Yuliia Tymoshenko and the

cabinet in 2005 in part due to disagreements about the review of privatization practices under the previous regime.<sup>17</sup>

Vertical accountability may also be “bottom-up.” Elections are often cited as quintessential examples of vertical accountability, in which individuals at lower levels of decision-making authority (citizens) use institutional tools to reward and punish actors at higher levels. The 2004 Orange Revolution was, in part, a reflection of this method of accountability. Citizens rejected the regime’s preferred candidate, voting instead to install an opposition candidate as president. While this effort was initially stymied by vote fraud, and was only reinstated after massive public protest (another mechanism of bottom-up vertical accountability), it illustrates how elections are intended to facilitate vertical accountability. The 2019 presidential elections, in which the incumbent president was unseated by a political newcomer, can also be interpreted as citizens holding the system accountable and rejecting establishment politics.

In authoritarian societies, or semi-democratic societies driven by machine politics, this “bottom-up” accountability relationship via the ballot box may be reversed. Stokes (2005) notes that political machines attempt to infer individual votes and punish those who do not support them in the voting booth. Such efforts have been described anecdotally in the postcommunist region. In 1993, the president of Tatarstan (Russia), Mintimir Shaimiev, threatened to cut off critical supplies to villages if citizens did not boycott the election.<sup>18</sup> In past Ukrainian elections, university faculty members were allegedly threatened with punishment if precincts associated with student dormitories did not support particular candidates.<sup>19</sup>

With vertical accountability, therefore, we assume that a hierarchy exists, whether it is formal or informal. Actors situated at a higher level of the hierarchy generally exert more power and authority than their underlings. In these cases, vertical accountability is “top-down,” with the more powerful actor monitoring and reacting to behaviors of the less powerful actors. In other cases, it is “bottom-up,” with weaker actors holding the more powerful actor accountable. In either situation, oversight, rewards, and punishments flow vertically.

Horizontal accountability implies that within the formal or informal hierarchy, actors have roughly the same level of power, and also have the authority to check the behavior of other actors situated at the same level (O'Donnell 1998).<sup>20</sup> Horizontal accountability may be able to circumvent some of the impediments to vertical accountability, notably information asymmetries between government officials and the public (Ferejohn 1999) or between different levels of government offices.<sup>21</sup> Examples of horizontal accountability include judicial review, legislative votes of no confidence or impeachment, question time,<sup>22</sup> and legislative questions and interpellations (Salmond 2007; Yamamoto 2007). Members of parliament often have the right to sanction their colleagues within the legislative body, or to make requests of agencies within another branch of government through the use of legislative questions or interpellations.<sup>23</sup> While some members of a parliament could have a position situated at a level higher than a peer (e.g., Speaker, party leader), members are often authorized to evaluate their colleagues for alleged violations of proper behavior and make a decision to censure or expel another member, depending on the severity of the action.

As noted above, the concept of diagonal accountability may involve public pressure on government oversight bodies, or the enhanced role of independent institutional actors (e.g., ombudspersons). The key difference between diagonal accountability and its cousin, horizontal accountability, is the role of the citizenry in initiating the process. Horizontal accountability mechanisms must be initiated by an actor in an equivalent position. For example, a member of parliament may initiate hearings on perceived wrongdoing by another legislator or member of government. If this process is instigated or enhanced by the role of civil society organizations, citizen mobilization, or other processes directly linking people to horizontal accountability tools, the process may be considered diagonal (Pelizzo and Sta-penhurst 2013). Diagonal accountability incorporates nongovernmental actors into a process typically designed for officials.

In sum, the relative positions and power of actors in the hierarchy could affect how accountability is implemented. Actors with more authority may be better positioned to demand responses from their subordinates, but

opportunities to “ask uncomfortable questions” at the same level of authority may also induce appropriate responses.

### ***Individual and Collective Accountability***

Most discussions of accountability focus on individuals—voters, legislators, ministers, presidents—who monitor the behavior of other individuals and provide rewards or punishments as corrective actions. A foundation of accountability is to identify who is responsible and to acknowledge that responsibility when rewarding or punishing actions are taken. With individual accountability, the behavior of a single actor is monitored and evaluated. Even if the individual is a part of a larger collective identity—a political party, agency, or organization—the rewards or punishments are directly applied to that actor. The actor’s confederates who share that collective identity are not rewarded for the actor’s good behavior or punished for the actor’s bad behavior.

In some cases, the rules do not permit individual accountability. Returning to the example of elections from above, when a voter supports an incumbent in an election, she rewards the incumbent’s behavior. When she supports a challenger, the voter punishes the incumbent. Some electoral systems do not permit the voter to direct a vote to a single candidate, however. Under a closed party-list ballot, which Ukraine used to select at least part of its legislature from 1998 to 2019, the voter may be familiar with the behavior of individuals on the list of electable candidates, and she may have strong preferences among those candidates. Further, she may strongly support one of those candidates, but be disappointed in the general behavior of the party organization. When casting her ballot, she may not reward her preferred candidate and punish the party simultaneously—the ballot only permits her to select the party’s list as her preferred winner. Failing to support the party could punish her favored candidate; supporting the party could result in her favored candidate gaining a seat, but that outcome depends on the candidate’s position on the list and the party’s overall performance. In short, our hypothetical voter faces a dilemma of collective accountability: either she rewards the group (party) for the successes of her preferred candidate, or she punishes her preferred candidate for the sins of the party.<sup>24</sup>



Collective accountability can be expanded beyond parties in elections. A legislator may hold hearings or issue requests to a government agency based on the actions of a single bureaucrat. A nongovernmental organization or media outlet may be sanctioned by a government official or agency for the behavior of one of its representatives, even if the individual has violated internal standard operating procedures. Groups may also initiate accountability actions, as when nongovernmental organizations investigate and publicize improper behavior by officials. For example, the Ukrainian NGO Chesno has recorded and publicly posted videos of individual legislators casting proxy votes for others in their party, in violation of parliamentary regulations (see chapter 5 for more details). While the organization cannot directly sanction the deputies allegedly engaging in the behavior, the organization contributes to the accountability process by providing essential information to other actors in government, or voters, who can punish the behavior.

In short, while individual actions may be at the core of accountability, groups may be rewarded or punished collectively for actions taken by their members. This feature may be used to induce different behaviors among those monitoring behavior as well as those being monitored.

### ***Unidirectional and Reciprocal Accountability Relationships***

Accountability may flow in one or two directions; either one actor has the authority to hold another actor accountable, or both have leverage over each other. Unidirectional accountability is generally perceived to flow down a hierarchy, with a “boss” monitoring behavior and meting out punishments or rewards. A president may punish an underperforming cabinet minister by dismissing him; a cabinet minister may reward a successful midlevel bureaucrat by promoting her. These lower-level actors do not have the capacity to hold accountable actors at a higher level of authority.

If both actors have leverage over each other, accountability is reciprocal. In these circumstances, the relationship between the actors can be mutually beneficial, but each actor expects the other to produce value. For example, in the study of American legislative parties, Cox and McCubbins (1993; 2004) note that party leaders expect fealty from party members, as

manifested in legislative votes that align with the leaders' preferences. To the extent that members cooperate, the party can be more successful in reaching its legislative goals and building a "brand." A consistent "brand" is critical to long-term electoral success and maintaining a majority. Individual members rely on the party brand to facilitate re-election, with a stronger brand being more likely to serve the individual member's needs. When the party leadership is perceived as incapable of maintaining the brand, or modifies the brand in ways that are electorally costly, legislators may hold leaders accountable by removing them or exiting the party. In short, party leaders strive to hold legislators in their party accountable, and legislators strive to hold accountable the leadership of the party.

Reciprocal accountability is also present in authoritarian societies. Although the USSR featured strong individual and strong collective leadership at the top of the party during its seventy-year history, Roeder (1993) argues that support from a "selectorate" of key figures in the party and the economic, political, and security branches was necessary for leaders to stay in power. At the same time, the leadership could dismiss members of the selectorate, promote unenfranchised actors to the selectorate, or expand the selectorate's overall size. While the selectorate varied over time, it was in a relationship of reciprocal accountability with the primary leadership of the USSR.

One would anticipate variation in the actions and attitudes of political actors engaged in unidirectional or reciprocal accountability relationships. The range of possible actions for the principal is likely to be wider in a unidirectional relationship, because reciprocity is likely to limit possibilities for punishments given that both actors have leverage over each other.

Accountability is a multifaceted and essential component of democratic governance. To understand how accountability functions, we need to learn about the relationship between the "watcher" and the "watched," the level of complexity associated with observation and blame (or reward) attribution, and the relative power that these actors hold vis-a-vis one another.

## **Conclusion**

This chapter has identified the key concepts that guide the analysis in this book. Accountability—the ability to monitor behavior and take corrective action—is a long-standing concept in human societies, but it is especially crucial in successful democratic regimes. In addition, formal and informal rules are a common feature in both authoritarian and democratic countries. While informal norms can aid in the governance process, they can also introduce perversions that undermine the rule of law and democratic institutions.

Accountability also takes on many forms, which vary based on the actors, their relationships, and the direction that power flows among them. To fully assess accountability, it is necessary to understand if relationships are vertical, horizontal, or diagonal; if actors are individual or collective; how much power actors wield; and if the relationship is one- or two-way. This book addresses all of these issues in the context of a transitional, postSoviet society.

Ukraine's challenges in establishing and maintaining functioning accountability mechanisms tell an important cautionary tale about postauthoritarian institution-building in postcommunist societies and beyond. Accountability in Ukraine often reflects a paradox: to create functioning democratic institutions, Ukrainian political actors have often explicitly or implicitly incorporated practices that undermine the very effectiveness of those institutions. The following chapters take the basic concepts outlined here and apply them to experiences from Ukraine's post-Soviet era. Before analyzing the successes and failures of accountability in Ukraine, however, chapter 2 elaborates on the complicated context in which accountability tools operate.

## 2 Politics and the Struggle with Corruption

In chapter 1, I described the concept of accountability. At its core, accountability requires at least two actors, one of whom is obligated to justify decisions to the other and may be rewarded or punished based on the level of satisfaction that the decisions and their justifications engender. The relationships among these actors may be, as the literature indicates, vertical, horizontal, or diagonal, depending on how they are connected to one another in the political system. While the discussion in chapter 1 emphasized democratic accountability tools such as elections, it also noted that accountability is not limited to democratic systems. Any interaction that incorporates “answerability” and “enforcement” can produce accountability.

Democratic accountability presupposes that institutions function and that officials operate through above-board channels. Corruption undermines accountability in several ways: improper relationships may alter expectations of behavior, mechanisms of oversight (rewards and punishments), and the underlying sense that institutions are legitimate. As corruption perverts the relationships that undergird accountability, it can also change lines of accountability. Elected officials who perceive that they owe a debt to actors who manipulate elections in their favor may be less responsive to citizens and more responsive to the expectations of those corrupt forces. Civil servants who accept—or solicit—bribes to take action may feel obligated to prioritize activities for which they have received illicit compensation rather than following standard operating procedures. Corruption can alter **who holds whom** accountable and **how**.

In short, a fundamental requirement for democratic accountability to function is for citizens, and especially politicians, to generally abide by formal rules and regulations. While all modern, democratic societies experience some slippage when individuals cheat and are not caught, behaviors designed to skirt the law to the benefit of the perpetrator should not be systematic and widespread. This chapter explores how corruption affects the realization of accountability, and how these two concepts have intersected in Ukraine. In the first section, I define “corruption” and

situate Ukraine among other contemporary societies in terms of the extent of perceived corruption in its institutions. I also address how the sequence of introducing accountability institutions matters. In the second section, I trace the origins of corrupt behaviors from the late Soviet period and connect them to the development of postcommunist institutions. I conclude the chapter by evaluating the sequence and effectiveness of accountability mechanisms that have been introduced in contemporary Ukraine.

## **The Concept of Corruption**

Although the term “corruption” is in widespread use among nongovernmental organizations and academic researchers, the concept is slippery. Corruption is generally characterized as the “misuse of public office for private gain,” although this definition assumes that corruption is largely associated with formal political power and implies that public office should not be used for private benefits (Karklins 2005).<sup>1</sup> The definition also implies that corruption requires the *misuse* of public office; private gain that is not a direct result of illicit activities would not be classified as corruption. Demonstrating that a public office is being misused can be challenging, however, because informal norms, rather than formal rules, sometimes dictate how public officials behave. Presidents who are also private-sector business owners—such as Donald Trump in the United States or former president Petro Poroshenko in Ukraine—could benefit personally from their businesses’ successes while not technically violating the boundaries of the presidential office’s authority.<sup>2</sup>

The corruption watchdog, Transparency International, characterizes corruption as the “use of entrusted power for private gain.”<sup>3</sup> Instead of emphasizing the “misuse of public office,” this approach incorporates power, broadly conceived, and does not specify that perpetrators are violating rules to achieve their private gain. The definition also encompasses actors who may not formally occupy public posts, but whose positions carry an expectation of action designed to enhance the public good. Leaders of nongovernmental organizations, journalists, and other professionals engaged in public policy or oversight activities are included in this approach to corruption. Empirically, this definition is harder to

operationalize, but it better covers the range of behaviors that the public often characterizes as corrupt.

The catalog of corrupt behaviors could be limited to practices that technically violate laws, or could be extended to include practices that violate moral sensibilities. It could be limited to benefits accruing to the individual committing the act, or it could be extended to benefits accruing to kin or confederates (DeVries and Solaz 2017).<sup>4</sup> Corrupt behaviors may not include individual gain, but rather could be actions that undermine institutional integrity and purpose (Philip and David-Barrett 2015) and negatively influence how policies are made (World Bank 2000).<sup>5</sup> Questionable activities also may be interpreted differently in varied cultural, social, or temporal contexts; in certain times and places, behaviors that seem to clearly cross the line into corruption may not be interpreted locally as problematic.<sup>6</sup>

Karklins (2005) classifies a set of illegal behaviors that generally match standard definitions of corruption and also undermine accountability. She identifies interactions between citizens and officials where citizens must resort to bribery to influence the application of rules; examples would include officials' soliciting bribes by misrepresenting procedures to citizens or by improperly applying regulatory power. She further describes the misappropriation of public funds by officials for personal benefit, using access to state-owned resources for personal gain (e.g., procurement processes), and the improper distribution of patronage and jobs. While these actions may be part of small-scale schemes by individual public officials, they may develop into a system where public positions are traded like market commodities (Engvall 2015), degrading the institutions designed to hold officials accountable.

Activities that on their face seem to be corrupt and may also violate formal rules are commonly practiced if not accepted as normal behavior in much of the post-Soviet region. Alena Ledeneva's (2006) *How Russia Really Works*<sup>7</sup> describes a range of behaviors inherited from the Soviet period that skirt formal rules, are arguably corrupt, but are also seemingly ubiquitous in the post-Soviet region. Vertical accountability can be undermined by the use of "Black PR" and *zakazukha*—the process of

bribing the media for publication of damaging material, and by *kompromat*—the production and deployment of “compromising materials” about one’s political or commercial foes. The informal norm of group solidarity, captured by the term *kru-govaya poruka*, damages accountability when group members who commit infractions are protected from formal oversight by their comrades.<sup>8</sup> Financial manipulations and falsifying production data, learned in the Soviet period to address inefficiencies of economic planning, manifest themselves in many ways, including skimming public monies for personal gain (Gregory and Stuart 1986). While these and other mechanisms are not absent in democratic societies that emerged in Western Europe and North America, they have been reduced over time in concert with the rise of the rule of law. Less time has passed in the post-Soviet era, and many of these behaviors have persisted as the development of the rule of law has stalled.

The informal practices identified by Ledeneva are often the doppelgang-ers of more acceptable behaviors. For example, whereas “Black PR” is always characterized by illegal activities, electioneering efforts that smear opponents or tout the alleged merits of the candidate may be perfectly legal but ethically dubious. Conducting opposition research and leaking damaging materials about political rivals has a long tradition in democratic electoral politics and can comply with election laws. Outside of elections, concepts such as *krugovaya poruka* could, in principle, describe efforts to use group connections to overcome collective action problems. Today, however, this concept is more likely to be associated with deception and cover-ups of improper actions. That is, some behaviors are always illegal and result in private gain; others may be legal albeit ethically dubious, and may not result in private gain.

In all of these conceptualizations of corruption, the behaviors obstruct a clear view of an individual’s actions and impair accountability. Without accurate information about the behavior of public officials, voters cannot hold elected representatives accountable and elected officials cannot hold bureaucrats accountable. This process can create new lines of informal accountability that undermine the regularization of democratic practices and the rule of law. Corrupt behaviors—whether they directly involve the illicit exchange of a good or service for financial benefit, or they provide

improper access to power that facilitates subsequent gains—chip away at the transparency needed for accountability, the rule of law, and democracy to thrive.

Corruption's challenge to democratic governance is especially insidious when the behaviors are perceived as **normal**. While perpetrators or victims of corruption may understand that exchanges are normatively “wrong,” they may also accept these practices as “the cost of doing business.” Faced with a choice of paying a doctor on the side, or waiting for an appointment; bribing a traffic officer, or being delayed in transit; or making an illicit payment for a business permit, or wading through red tape; many citizens may acquiesce to mundane corruption. As individuals become habituated to the “cost of doing business” and as these practices spread, illicit behaviors may be normalized at the highest levels of government and in daily street-level interactions. If normalized, these behaviors may be viewed as an obstacle, but not as a reportable offense. It is the way to live your life and get things done; challenging it may be more trouble than it is worth. Normalizing corruption in institutions undermines their democratic potential; normalizing corruption in daily life reinforces to citizens that formal rules do not matter, especially to those with wealth, power, and connections.

### ***Democracy, Corruption, and Accountability in Contemporary Ukraine***

A prerequisite for functional, democratic government is the elevation of formal rules over informal arrangements. In a democracy, the rules **should** matter, and while some officials and citizens may “get away” with violating these rules on occasion, the prevailing expectation is that at their core, democracies are regimes in which formal rules usually triumph. This expectation is fulfilled when citizens hold public officials accountable through regular, competitive elections, and officials hold each other accountable through oversight and adjudication procedures sometimes led by a robust civil society.

During the first few years of Ukraine's independence, it made progress toward democracy. Figure 2.1 illustrates this evolution using data from the Varieties of Democracy (V-Dem) project. The figure shows four



indices emphasizing different aspects of democracy from 1989 until 2018: electoral, egalitarian, liberal, and participatory.<sup>9</sup> Ukraine notably performs better on the electoral democracy index, but its relative performance on other indexes is similar. All four measures undulate along a similar path: upward progress from 1989 until roughly 1994, a downward path from roughly 1995 until 2005, a return to an upward trajectory until 2010, followed by a decline in democratic qualities through 2015 and apparent stabilization through 2018.

The V-Dem assessment of Ukraine conforms with its political history. For much of its first decade, Ukraine was a semi-authoritarian regime that featured electoral competition, but with limitations on free and fair elections. In the second decade, Ukraine witnessed strong public reaction to efforts by rulers to extend the semi-authoritarian regime under a new leader. The Orange Revolution in 2004 propelled former members of the

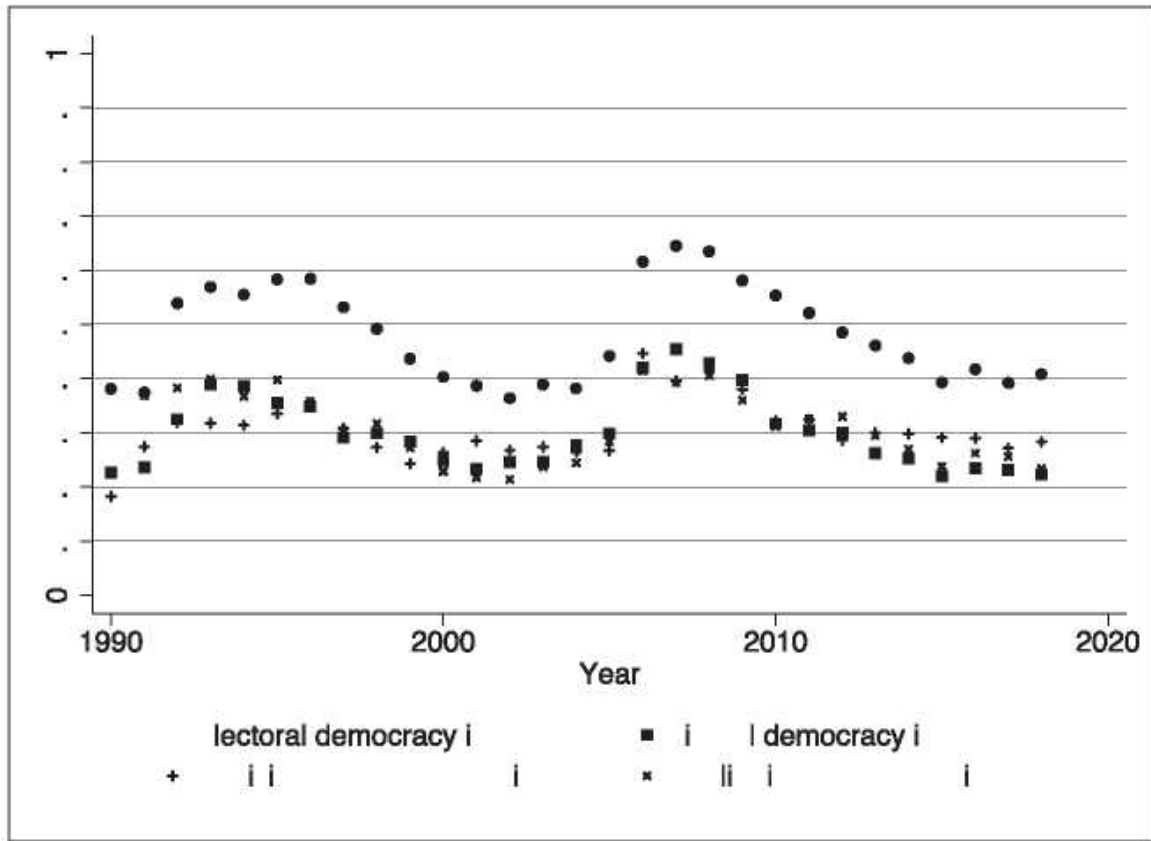


Fig. 2.1. Democracy in Ukraine, 1990–2018

political opposition to power. While these politicians struggled to overcome their personal and policy disagreements, they ushered in an era of stronger democratic practices. The 2006 and 2007 parliamentary elections were the first in Ukraine to be labeled largely free and fair by the international community,<sup>10</sup> and the 2010 presidential election also nearly met international standards. The winner of the 2010 presidential election, Viktor Yanukovich, did not continue the democratization process, instead making policies that led to a deterioration in democratic quality. His ouster in 2014 led directly to foreign invasion, Russia’s annexation of Crimea, and an ongoing conflict in the eastern region of Donbas (see the second half of this chapter for more details).

While assessments of democratic quality varied over time, Ukraine was consistently judged to be a highly corrupt society. Transparency International’s Corruption Perceptions Index rates countries by compiling

information from other expert rankings and focusing on items associated with impressions of corruption. Because the methodology changed over the years, and the number of countries in the survey also changed, it may be most instructive to assess Ukraine relative to its neighbor, Russia.

Figure 2.2 compares Transparency International rankings<sup>11</sup> for Russia and Ukraine from the first year in which Ukraine was included in the index until the most recent. The figure displays the numerical rank for both countries as well as the rank of the lowest-performing country in the survey that year. It is important to note that the apparent decline in rank from 1998 until around 2010 is in part due to the expansion in the number of countries included in the annual index.

While Russia and Ukraine track closely to one another, it is notable that Ukraine's corruption perception ranking falls below Russia's in the early 2000s but the two countries change position after the Orange Revolution in 2004. Following Viktor Yanukovich's victory in 2010's presidential election, Ukraine is positioned just below Russia. While the two countries are tied in 2016, Ukraine's position relative to Russia and the lowest-ranked country improves through 2018. Even during periods where Ukraine's level of democracy is rated substantially higher than Russia's (from 2005 to 2010 and after 2014), its relative level of corruption sometimes exceeds, or matches, Russia's. This is especially notable in the post-Euromaidan era (2014-present), when efforts by civil society to challenge corruption have been accelerated.

The view of Ukraine as corrupt is not held solely by international organizations. Ukrainian citizens also view corruption as pervasive, especially among government institutions. After Euromaidan, a majority of Ukrainian survey respondents identified courts as corrupt and a plurality labeled the Verkhovna Rada as corrupt. Negative views of institutions are not confined to national-level organizations such as the legislature or judiciary, but are found in assessments of day-to-day interactions with civil servants. While police reforms have been enacted to ameliorate corruption, Ukrainians identify the police as a source of corrupt behavior, suggesting that they view corruption as both a national-level and street-level problem.<sup>12</sup>

Ukraine’s performance in assessments of democracy and corruption is middling at best. However, it has avoided both negative and positive extremes: its most authoritarian periods still feature elements of pluralism, and its most democratic periods still feature deficiencies in free and fair practices. It should not be surprising that the introduction of accountability institutions also features this tension—while the rules formally introduce oversight, they also fail to fully actualize best practices in accountability.

This observation begs the question, how do countries extricate themselves from authoritarian and corrupt environments? Democratization re-

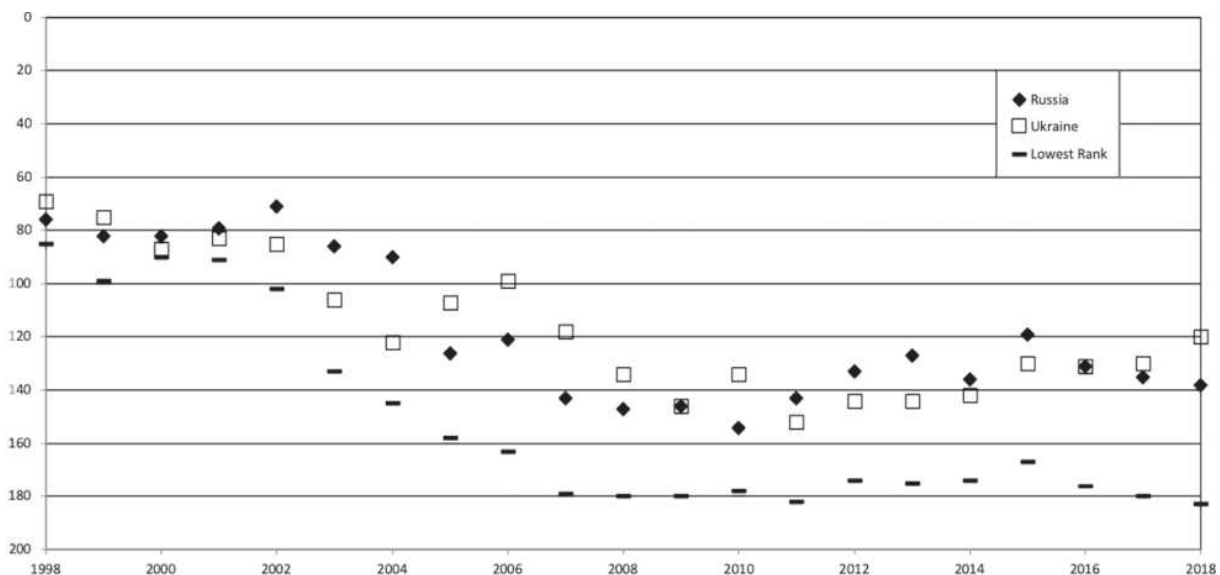


Fig. 2.2. Transparency International Corruption Perception Rankings, Russia and Ukraine

search has evaluated how to effectively sequence the introduction of accountability mechanisms, noting that the introduction of meaningful political competition is an especially critical first step (World Bank 2000). Political competition is buttressed by rules that enhance free and fair elections. The set of accountability mechanisms that can enhance electoral competition ranges from relatively simple to complex, measured by the number of actors who must “buy in” to the process and the range of behaviors that must be monitored (Lindberg et al. 2017). For example, developing remedies for specific types of election fraud (e.g., vote buying) is relatively simple. Developing tools to ensure that the whole election process is free and fair is more complex. Ensuring that electoral

management bodies, from the national-level institutions to street-level commissions, are independent may be even more challenging.

The scholarship on sequencing also suggests that the evolution of vertical, horizontal, and diagonal accountability mechanisms is interrelated. Most notably, initial advances in vertical accountability feed subsequent successes in horizontal and diagonal accountability. Lindberg et al. (2017) note that postcommunist sequencing differed from experiences in other parts of the world: “However, after the fall of the Iron Curtain the development of electoral freedom and fairness and non-clientelistic party linkages seems to require considerably more progress in other aspects of accountability than the mere holding of multi-party elections” (Lindberg et al. 2017, 43).

Their empirical evidence suggests that certain reforms require fewer commitments and are easier to institute. Among vertical accountability reforms, addressing vote buying, facilitating multiparty competition, and establishing conditions for autonomous opposition parties are among the most straightforward. Reducing barriers to multiparty competition, ensuring that elections are generally free and fair, and developing autonomous election-management bodies are more complex and may require preconditions in horizontal or diagonal accountability. Establishing some aspects of horizontal accountability, such as judicial accountability and legislative control over resources, requires fewer conditions than instituting effective legislative oversight and judicial independence. In the realm of diagonal accountability, creating an environment for civil society organizations to participate and for open discussion in the media is relatively simple; eliminating government censorship and maintaining engagement in society is more challenging.

How well—or poorly—has Ukraine fared in developing an environment where accountability is central to the behavior of public officials and citizens? What is the sequence by which accountability was introduced to Ukraine? How has corruption infiltrated this process? The following section outlines the intersection of accountability and corruption in late-Soviet and post-Soviet Ukraine.

## **Accountability and Corruption in Ukraine**

## ***Soviet-Era Accountability and Corruption***

During most of the Soviet period, formal institutions were not designed to permit citizens to hold officials accountable, nor were they designed to allow most officials to hold each other accountable. Elections served important purposes in the functioning of the Soviet state, but not as vertical accountability tools permitting citizens to “throw the bums out” if they did not perform well. After Josef Stalin’s consolidation of power in the late 1920s and the codification of a new constitution in 1936, elections became political theater featuring a single, party-supported candidate for each elected position (Herron 2009). The creation of new legislative institutions, such as the Congress of People’s Deputies in 1989, spawned opportunities to hold officials accountable that the generation of Soviet citizens living at the time had never fully experienced.

Early Soviet institutional design decisions introduced oversight mechanisms in the structure of the USSR. The Communist Party of the Soviet Union (CPSU) developed a parallel architecture that allowed it to manage decision-making and reporting across the political, economic, and national security spheres. Party officials at all levels communicated priorities, collected information, and supervised the behavior of the bureaucracy. Failures to fulfill plan objectives, for example, could result in financial penalties in the form of uncollected bonuses or dismissal of nonperforming officials. The CPSU served as the actor that required decisions to be justified and that had the power to mete out rewards and punishments. While the inefficiencies of the Soviet system are well documented (e.g., Gregory and Stuart 1986; Campbell 1991), a type of horizontal and vertical accountability existed.

However, the formal arrangements generated by the parallel structure of the CPSU and other institutions are not the only methods by which actors were held to account. Philip Roeder (1993) identified both formal and informal institutions that provided reciprocal accountability between the leadership and the “selectorate,” the group of individuals empowered to choose leaders—and potentially remove them.<sup>13</sup> In authoritarian societies like the Soviet Union, the selectorate often encompasses a small group of elites.<sup>14</sup> While the Soviet selectorate varied over time, it included key individuals in the

CPSU, the economic bureaucracy, and the security services. Roeder notes that leaders would attempt to expand or contract the size of the selectorate to achieve political goals; these changes also altered accountability relationships.

Other scholars have emphasized the importance of networks in the management of the Soviet system. In this context, accountability flows up and down personal, or patronage, systems through rewards and punishments. The development of the early Soviet state apparatus emphasized network connections rooted in revolutionary and Civil War interactions (Easter 2000). After these networks were broken in the rise of Josef Stalin, new networks emerged and persisted throughout the Soviet period (Hale 2015). In some eras, a single commanding network dominated the system, while in others competing networks vied for access to power and resources. Leaders who provided for their networks could thrive, but leaders who challenged the status quo distribution of resources could be ousted, as Nikita Khrushchev found in 1964 when his efforts to reform the party and economic bureaucracy failed.

Accountability existed in the Soviet Union, but it was not managed through mechanisms common in contemporary democratic societies. During most of the Soviet period, leaders were not accountable to citizens and elections were not mechanisms to punish poorly performing officials. Instead, officials could be removed from office in purges designed to eliminate rivals or otherwise alter decision-making authority. In the late Soviet period (1985-1991), however, a fundamental shift took place.

The accession of Mikhail Gorbachev to the position of general secretary of the CPSU in 1985 elevated the issue of accountability to a central position in efforts to reform the system. In his address to the XXVIIIth Party Congress, Gorbachev began to publicly discuss the problems of the Soviet bureaucracy, noting:

The Party must declare a determined and relentless war on bureaucratic practices. . . . Bureaucracy is today a serious obstacle to the solution of our principal problem—the acceleration of the country’s socio-economic development and the fundamental restructuring of the mechanism of economic management linked to that development. . . . Here it is important

to bear in mind that bureaucratic distortions manifest themselves all the stronger where there is no efficiency, publicity, and control from below, *where people are held less accountable* for what they do.<sup>15</sup> (1986, 105)

It is important to note that Gorbachev not only invokes the term "accountability," he indicates that "control from below" is a critical component of accountability. While Gorbachev's USSR had not yet instituted traditional democratic vertical accountability through competitive elections, he wanted citizens to be involved in the process of undermining corrupt bureaucracy and improving governance practices, especially as they related to economic efficiency. These steps are important because they revealed the problem of corruption and how accountability tools would be used in the Soviet context to challenge corruption.

A central aspect of Gorbachev's three-part reforms of *glasnost*, *perestroika*, and *demokratiya* was to encourage "criticism" and "self-criticism." Gorbachev recognized that a reason for the system's deficiencies was the failure to receive adequate feedback through standard channels. He even noted in his report to the XXVIIth Party Congress that officials had to be held to account for shortcomings, providing details of a major scandal in the Union Republic of Uzbekistan (Political Report 1986, 101-2):

Perhaps in their most glaring form negative processes stemming from an absence of criticism and self-criticism manifested themselves in Uzbekistan. Having lost touch with life, the republic's former top leadership made it a rule to speak only of successes, paper over shortcomings, and respond irritably to any criticism. . . . The situation in the economy and in the social sphere deteriorated markedly, machinations, embezzlement, and bribery thrived, and socialist legality was grossly transgressed.

It required intervention by the CPSU Central Committee to normalize the situation. . . . From this we have to draw the firm conclusion that in the Party there neither are nor should be organizations outside the pale of control and closed to criticism, there neither are nor should be leaders fenced off from Party responsibility.<sup>16</sup>



Gorbachev was referring to a controversy known colloquially as the “Cotton Scandal” It involved a widespread scheme to falsify cotton production data and profit from output that was never harvested or processed. The illicit connections between officials and organized crime, first uncovered under the leadership of Yuri Andropov in 1983 and further prosecuted under Gorbachev, led to a purge of the leadership in Uzbekistan at the republican and local levels (Gleason 1990). In many ways, Soviet-era struggles with corruption, typified by the Cotton Scandal, presaged the post-Soviet struggle with similar forces. Moreover, this event directly connected concerns about enhancing accountability with efforts to undermine corruption.

In the early stages of Gorbachev’s reforms, he emphasized self-reflection and self-criticism as methods to improve management practices and economic efficiency. The removal of unresponsive or irresponsible officials from positions of power still relied on more traditional mechanisms, such as purges through the party apparatus, as the Cotton Scandal demonstrated. As his tenure moved on, Gorbachev turned to other tools to enhance accountability, including elections.

During most of the Soviet period, elections to public office were a type of political theater. Representatives selected to serve on legislative bodies did not have the authority to make laws or check the power of other officials as they might in democratic societies. Citizens were not presented with choice on the ballot; they could only exercise a protest vote by engaging in the risky behavior of crossing off the name of the party-nominated candidate.<sup>17</sup> While official nominees occasionally failed to reach office, this outcome was rare. Elections did not serve as a method for citizens to hold officials accountable, but rather as a way for the system to practice large-scale mobilization; to descriptively represent class, gender, and ethnicity; to test the loyalty of citizens; and to demonstrate to the world that the Soviet Union was “democratic” (Herron 2009). The Gorbachev era, however, fundamentally changed how formal institutions were used to enforce accountability. The Soviet Union instituted competitive elections with the possibility that candidates representing the CPSU might lose.

The XIXth All Union Conference of the Communist Party of the Soviet Union, held in June 1988, further developed the concepts for institutional forms of accountability beyond the scope of the XXVIIth Party Congress, expanding the role of competitive elections. Gorbachev proposed the creation of the Congress of People's Deputies, with representatives selected by competitive elections using secret ballots. Gorbachev noted that voters "retain their rights to recall lazy or incompetent deputies" (*Materialy* 1988, 48), a clear nod to the idea of vertical accountability.<sup>18</sup> In addition, Gorbachev proposed to create a new chair (*predsedateV*) "elected and recalled by secret ballot, and . . . fully answerable and accountable to the Congress of People's Deputies" (*Materialy* 1988, 51).

While elections would serve as the mechanism to hold officials in check, the Congress of People's Deputies would not survive long enough for a true test of vertical accountability. In the wake of the August 1991 coup attempt against Gorbachev by conservative forces, the Congress dissolved, followed by the Soviet Union's dismemberment a few months later. The Congress of People's Deputies never held a second election that would have allowed citizens to evaluate the activities of their representatives and vote on whether to retain or dismiss incumbents. Instead, many of the newly independent states emerging from the USSR would hold successive elections after the collapse.

Ukraine asserted its independence in late 1991, holding elections as if it were an independent country.<sup>19</sup> Ukraine's transition was inhibited by the lack of a political class with experience in competitive, democratic politics. Those who had been trained by the Communist Party were unaccustomed to the kinds of creative problem-solving and personal initiative needed to address transition crises, because they were conditioned to rely on party bosses in a command-and-control hierarchy. Those who came from the ranks of dissidents were unaccustomed to the discipline and decisiveness needed to govern, because they were conditioned to challenge authority and organize protests (Motyl 1993). Ukraine faced a daunting challenge of developing state capacity, creating new political institutions, reforming the centrally planned economy, and forging a Ukrainian national identity that unified citizens under the new yellow-and-blue flag.

Progress toward establishing the new state was painfully slow. Ukraine did not hold founding elections after the Soviet collapse, retaining largely leftist legislators who had gained their seats in competitive, but not fully free and fair, elections in late 1991. Civil service personnel also remained in place. Oligarchs—businesspeople who accumulated power and wealth through both legal and illicit methods—increasingly influenced political and economic decision-making. These features impeded economic and political reform efforts and rendered Ukraine’s political system especially ineffective and corrupt in the 1990s (D’Anieri, Kravchuk, and Kuzio 1999).

The failure to develop clear democratic norms and practices, and the lack of institutional capacity to function efficiently, are perhaps best represented by the long-delayed constitution. Ukraine was the last post-Soviet state to codify a new constitution, achieving this goal only in 1996. At the same time, newly independent Ukraine moved forward on developing institutions and practices that could, in principle, foster accountability. A free media emerged. Nascent civil society grew. Institutions developed standard operating procedures. Multiparty elections selected leaders at many levels of Ukraine’s society.

### ***Post-Soviet Accountability and Corruption***

Six days after his election as president of Ukraine on December 1, 1991, Leonid Kravchuk met with Russia’s president Boris Yeltsin and Belarus’s Supreme Soviet chairman Stanislav Shushkevich to initiate the process of formally dissolving the Soviet Union and creating fifteen independent states.<sup>20</sup> The Belavezha Agreement, signed on December 8, would be formally enacted a few weeks later when Mikhail Gorbachev resigned and the USSR was officially disbanded on December 26. Since the failed coup attempt in August 1991, Ukrainian officials had been increasingly behaving as though the country was a sovereign state, but with the lowering of the Soviet flag over the Kremlin in Moscow, independence had officially arrived.

While Kravchuk guided Ukraine in its first steps as an independent state, a more important figure emerged to establish Ukraine’s corrupt, semiauthoritarian system in the 1990s: Leonid Kuchma. After winning the

early presidential election in 1994, defeating the incumbent Kravchuk, Kuchma and his allies extended their influence through the system. Kuchma's leadership is characterized by a type of "balancing" among competing forces. In international politics, Kuchma pursued "multivector" foreign policy, with overtures to Europe and the United States as well as Russia. Kuchma's commitment to Ukraine's sovereignty may have driven this approach; while flirting with Western democratic institutions, Kuchma's policies did not stray too far from Russia's preferences.<sup>21</sup>

Domestically, Kuchma also developed a type of balance between more pluralistic, democratic policies and more restrictive, authoritarian policies. Kuchma permitted the political opposition to contest elections and allowed media organizations to publish critical material, but there were limits to his commitment to contestation and media freedom. The political opposition's efforts were constrained by executive power that undermined antiregime politicians, notably manifested through the use of government authority (called "administrative resources") to benefit parties and candidates associated with the regime and undermine antiregime politicians. Members of the opposition also experienced threats and violence, sometimes resulting in death. While some members of the political opposition suspected that several suspicious deaths were directly attributable to Kuchma, such as the car accident that killed Viacheslav Chornovil in 1999, little direct evidence linked government to opposition mortality.

However, the connection between the president and politically motivated murder solidified in 2000. Heorhii Gongadze, a journalist whose online publication ***Ukrainska Pravda*** pursued stories about government corruption, was murdered and decapitated. The discovery of his body raised strong suspicions that he had been assassinated by government security services. The release of secret audio tapes, recorded in Kuchma's office, connected the president directly to the disappearance. While Kuchma does not order Gongadze's murder in the recordings, he makes clear that he considers the journalist to be a problem and proposes "solutions" that allude to violence.<sup>22</sup> Gongadze's murder served as a catalyst for extensive public protest from late 2000 until spring 2001. The "Ukraine without Kuchma" movement ended in government repression; in

early March 2001, protesters were attacked and arrested by internal security forces at a park near Kyiv Taras Shevchenko University. The Kuchma regime won a Pyrrhic victory over the opposition as the “Ukraine without Kuchma” movement propelled opposition politicians forward to a strong performance in the 2002 parliamentary elections and taught civil society important lessons about mass protest activities that would serve it well in the subsequent Orange Revolution.

The next critical moment in Ukrainian politics was the 2004 presidential elections. Kuchma faced term limits, and instead of attempting to modify the constitution to stay in power, he selected a successor. The regime’s candidate, Viktor Yanukovych, built his political career in Donetsk. He served as governor of Donetsk Oblast and as prime minister under Kuchma. In his youth, Yanukovych twice served time in prison, first for robbery and later for assault.<sup>23</sup> These transgressions helped cultivate a thuggish persona that was in sharp contrast to that of the main opposition candidate, Viktor Yushchenko.

In Ukraine’s early days of independence, Yushchenko was appointed head of the central bank, the National Bank of Ukraine. Yushchenko managed economic crises, oversaw the establishment of an independent currency (the *hryvnia*), and defended an economics dissertation. During the campaign, Yushchenko was poisoned by dioxin and faced increasingly malevolent tactics from the regime. Compared to Yanukovych, Yushchenko was perceived as more intelligent, charismatic, and—especially after the assassination attempt—sympathetic. As the election approached, it became clear that the competition would be tight.

For a candidate to win the presidential election, he or she must garner over 50% of the vote in the first round, or participate in a runoff election between the top two vote-getters from the first round. Yanukovych and Yushchenko emerged from the first round in October 2004 in the top two positions and faced each other in the second round held in November. During the campaign and on election day, evidence of large-scale efforts to commit fraud in favor of Yanukovych emerged. Domestic and international observers documented widespread and systematic efforts to stuff ballot boxes, alter election documents, intimidate voters, and

improperly influence the counting and certification processes. While Yanukovych was initially declared to be the winner, the validity of his claim to the presidency was challenged.

Hundreds of thousands of Ukrainians occupied the main square in the capital city of Kyiv (Maidan Nezalezhnosti, or “Maidan”) and participated in demonstrations all over the country during the Orange Revolution. The opposition set up a tent city on the main street and on Maidan, occupying it for weeks. After a Supreme Court decision vacated the results, and following negotiations with the Kuchma regime, a compromise was reached: the second round of the election would be repeated. In December 2004, Yushchenko defeated Yanukovych and was inaugurated as president in early 2005.

The celebrations among opposition political forces did not last long. The three major politicians who had united to defeat Yanukovych—Viktor Yushchenko, Yuliia Tymoshenko, and Oleksandr Moroz—soon faced growing discord. Yanukovych, stung by the defeat, worked closely with international political consultants (especially the American consultant Paul Manafort) to rehabilitate his image. A rebranded Yanukovych and Party of Regions achieved significant successes in the 2006 parliamentary election. The government coalition, weakened by infighting in its ranks, collapsed in the summer of 2006, leading to an early parliamentary election in 2007.

Despite the initial optimism associated with the opposition’s surprising victory in 2004, it failed to govern effectively.

In addition to facing a divided government, Yushchenko had more limited power than his predecessor. As part of the compromise during the crisis period of the Orange Revolution, the opposition promised to institute constitutional changes that would limit the president’s authority beginning in 2006. For example, after the reforms the power to appoint and dismiss the prime minister and most of the cabinet fell under parliament’s authority. While these changes were revoked by the Yanukovych regime in 2010, they returned after Euromaidan in 2014 (Fisun 2016).

Yanukovych capitalized on Yushchenko's failures during his 2010 presidential bid. While Yushchenko's popularity had plummeted during his presidency, his rival Yuliia Tymoshenko emerged as a contender for the top office. She faced Yanukovych in the second round, but lost narrowly. Yanukovych had failed to steal the presidency in 2004, but he successfully won it in a heated, but largely fair, competition in 2010 (Herron 2011a).

After he legitimately won the presidency, Yanukovych made policy decisions that undermined the democratic progress Ukraine had made under Yushchenko. The Yanukovych government pursued criminal charges against Tymoshenko, jailing her and other opposition leaders. Media freedom deteriorated, corruption grew, and election quality declined. In addition, Yanukovych approved decisions that many Ukrainians feared would undermine their sovereignty, notably extending the lease to Russia for Crimean military bases (Herron and Boyko 2012).

While Yanukovych's inclinations tended toward authoritarian decisionmaking and the illicit accumulation of personal wealth, it is also important to acknowledge that he faced a dilemma regarding Ukraine's orientation toward Russia and the West. Yanukovych strove to model his approach after Kuchma, whose "multivector" foreign policy attempted to balance a Russian and a European orientation while maintaining Ukrainian sovereignty. The Russian government during Kuchma's presidency—under Boris Yeltsin and then Vladimir Putin's first term—had been less aggressive internationally. By contrast, the Russia that Ukraine confronted in 2010 had recently invaded the Republic of Georgia in 2008 and was concerned about Ukraine's flirtations with Western institutions, especially NATO. Yanukovych had committed to advancing an Association Agreement with the European Union. But, late in the process in 2013, Yanukovych reneged and refused to sign the agreement. This decision was a catalyst for a new wave of street protests.

Unlike 2004's peaceful protests during the Orange Revolution, the Euromaidan protests turned violent. Government mobilized the security services in attempts to forcibly repress protesters, and the protesters fought back for weeks. In February 2014, violence peaked when snipers killed dozens of protesters. In the chaos that followed, Yanukovych fled the

country, de facto abdicating the presidential office. An interim government emerged to fill the leadership void.

The transition to a new government was swift. The interim government scheduled a presidential election in May 2014. Petro Poroshenko, an entrepreneur and politician who had worked with all sides of Ukraine's political divides, was elected and called snap parliamentary elections in October 2014. While these events were unfolding, Ukraine's sovereignty was gravely challenged. Russian military and security forces conducted "hybrid warfare" in Ukraine, infiltrating the Crimean peninsula masked as locals who had supposedly risen up against the new government in Kyiv. With their support, Crimean officials conducted an ersatz referendum on March 16 that provided a justification for Russian annexation. The Russian government hastily signed a treaty with Crimean officials and voted to formally accept the agreement a few days later. While it was considered invalid by most members of the international community, Russia declared that Crimea was formally a part of Russia again.

Russian intervention in Ukraine did not end in Crimea. Unrest emerged in Donetsk and Luhansk oblasts, with hybrid warfare also extending to this region of Ukraine. Russian security forces covertly supported ostensibly indigenous insurgencies. Similar to the process in Crimea, ersatz referendums were conducted in both Donetsk and Luhansk. While rival "governments" were set up in the regions—the so-called Donetsk People's Republic and Luhansk People's Republic—Russian officials made no formal efforts to incorporate these territories into the Russian Federation. Instead, the regions deteriorated into a conflict zone, with regular exchanges of fire and extensive collateral damage to property and civilians. The conflict turned from hybrid to kinetic warfare, with significant casualties among combatants and civilians along with hundreds of thousands of people displaced by the war. After intense fighting in 2014 and 2015, the Donbas region settled into a stalemate—punctuated by exchanges of fire that regularly claim lives—that persists at the time this book was completed.

While Poroshenko's government enjoyed early support as a stabilizing force, it was increasingly scrutinized for corruption. Accountability



procedures were instituted prior to 2014, but the Euromaidan revolution was an especially important moment in efforts to challenge corruption and build meaningful mechanisms of accountability. After Yanukovych de facto abdicated the presidential office, the media widely reported his excesses, most notably symbolized by his mansion at Mezhyhirya, which included amenities such as an ostrich farm and a dining facility shaped like a pirate ship. In response to public demands for more serious efforts to combat corruption, Ukraine's government introduced many new measures, including public wealth declarations (or e-declarations—see chapter 7) and the establishment of the National Anti-Corruption Bureau (NABU).<sup>24</sup>

NABU is an especially important institution. It is primarily a law enforcement organization empowered to investigate and prosecute government officials for corrupt, illegal activities. NABU's work is overseen by a Civil Oversight Council, drawn from the ranks of public activists and constituting a form of diagonal accountability. According to the 2017 annual report, NABU initiated 489 investigations, resulting in 165 indictments and 19 convictions.<sup>25</sup>

While NABU has advanced anticorruption activities, its work has also been defied by government officials. In late 2017, parliament undertook efforts to curtail the activities of NABU.<sup>26</sup> Other actors and organizations who have revealed official corruption were threatened by the Poroshenko administration. Anticorruption activists were required to declare their assets and faced harassment. The former president of the Republic of Georgia, who was invited to Ukraine, granted citizenship, and served as the governor of Odesa, was stripped of citizenship and ejected from the country.<sup>27</sup>

The perception that Poroshenko did not seriously address the issue of corruption fed into growing discontent with politics as usual. In 2019's presidential election campaign, an outsider candidate emerged and benefited from citizen impatience with the status quo. Volodymyr Zelenskyy, an actor who portrays a populist president on Ukrainian television, campaigned as an outsider who could clean up Ukraine's politics and ousted Poroshenko in a commanding second-round election victory in April 2019. Zelenskyy's presidency was in its infancy at the time this book

was completed, but I address some of the implications of his victory in later chapters.

This brief political history of Ukraine suggests that accountability and corruption have developed and interacted throughout the post-Soviet period. As the research on sequencing suggests, the initial efforts to establish accountability emphasized vertical accountability; establishing competitive elections as the Soviet Union was moving toward collapse. Vertical accountability further developed as multiparty elections spread, and flourished during the 2005-2010 period. However, vertical accountability deteriorated during the Yanukovych presidency and has faced significant pressure due to Russian aggression. Zelenskyy's victory in 2019, however, illustrates that vertical accountability can function even under these difficult circumstances. Diagonal accountability—especially the activity of civil society—has been especially strong in post-Soviet Ukraine. In addition to the major citizen uprisings that ousted corrupt officials in the Orange Revolution and Euromaidan, nongovernmental organizations have actively advanced accountability. Horizontal accountability has progressed perhaps the least; while parliament has asserted its authority over matters such as the budget, presidential powers under the semipresidential system were extensive during much of the post-Soviet period. The periods of 2006-2010 and 2014 until the present are exceptions; presidential power has been limited due to constitutional reforms that enhance the legislature's authority.

## **Conclusion**

This chapter introduced a challenge to the successful inculcation of accountability practices: corruption. Corruption can alter the connective tissues that bind accountability actors to public officials, distorting oversight and encouraging officials to respond to influences outside formal institutional boundaries. Nepotism, bribery, and other activities weaken official oversight and strengthen actors from outside the formal chain of command. While these challenges are daunting, many societies have transitioned successfully through them, developing effective democratic accountability institutions and minimizing—albeit not eliminating—the influence of corrupt behaviors.

Ukraine began its period of independence with the tasks of developing new political and economic institutions, establishing an effective state apparatus, and instilling a common understanding of what it means to be a Ukrainian citizen. Ukraine's initial steps toward developing accountability institutions track closely with the sequencing research: in the Soviet period, initial steps established basic vertical accountability mechanisms such as competitive (but not multiparty) elections. Following the Soviet collapse, a multiparty system emerged, but election management bodies were not independent and fraud was a common threat. The legislature established some control over resources, but the semipresidential system gave the president substantial authority as well. Civil society emerged, but its early forays into activism were often repressed. While the regime permitted a modicum of open discussion, the press and citizens faced barriers that, if crossed, could result in extrajudicial punishment.

The Orange Revolution in 2004 was a watershed moment in many ways. It demonstrated how accountability mechanisms—especially via the role of citizen activism—could alter corrupt decisions. The resolution of the Orange Revolution also paved the way for election fraud reduction, more robust political competition, and more competent election management bodies. Parliament gained more authority due to constitutional changes after the Orange Revolution, facilitating horizontal accountability. But these powers were returned to the executive branch after Yanukovych's 2010 victory. Other aspects of accountability did not advance as successfully. Questions remained about the independence and professionalism of the judiciary and the legislature.

Euromaidan in 2013-14 once again exemplified the advanced state of citizen activism in the accountability process. The ouster of Yanukovych sparked efforts to enhance accountability: the re-establishment of constitutional changes limiting the president's power, efforts to improve election quality, attention to judicial independence, and the introduction of new institutions such as the National Anti-Corruption Bureau. Poroshenko's defeat at the hands of a populist politician in 2019 was a further repudiation of the existing system and an example of citizens holding officials accountable for their failure to deliver. At the time this book was

being composed, Ukraine was once again experiencing advances in accountability at the same time that corrupt practices were undermining it.

As Lindberg et al. (2017) note forcefully, vertical, horizontal, and diagonal accountability mechanisms are related to one another. Advances in one area create space for advances in others. While lower-cost reforms may not be a prerequisite for higher-cost reforms, it may be more practical to institute “easy” reforms first. The advanced state of diagonal accountability in Ukraine, relative to its vertical and horizontal mechanisms, may help explain why it has twice experienced government ousters that do not conform with constitutionally defined procedures. A critical task for Ukraine is to balance this development—and the following chapters begin to address this issue. The next chapter looks in greater depth at the question of vertical accountability.

### 3 Vertical Accountability

Elections are the most common form of vertical accountability in democratic societies. While some scholars and political observers argue that elections are designed to produce policies reflecting the “people’s will” others argue persuasively that the “people’s will” is largely unknowable (e.g., Riker 1982). If society’s preferred policies cannot be discerned through the voting process, elections nevertheless serve a valuable purpose: citizens may observe how elected officials conduct themselves, and if those officials do not perform adequately, they can “throw the bums out”

This understanding of elections’ role in democratic politics implies that we should observe several features: minimal fraud or distortion, stable rules and party systems, and turnover in elected officials. All three characteristics facilitate vertical accountability; at least one—minimal fraud—is a necessary condition.

In the presence of widespread, systematic fraud, voter preferences are not accurately translated into outcomes. Rather, candidates or parties who ***should not*** win, based on the actions of citizens, are victorious. Manufacturing outcomes that violate expressed voter preferences is the antithesis of accountability. While most large-scale elections—even democratic elections—experience some fraud or manipulation,<sup>1</sup> they still function as vertical accountability mechanisms if the “wrong” candidate does not win.<sup>2</sup>

Stable electoral and party systems are also important for accountability, although they may not be a necessary condition. If the rules by which officials are selected change regularly, participants cannot learn how to function within those rules and use them to effectively check the behavior of elected officials. Further, when elected representatives modify rules to enhance their own chances of re-election, they may undercut accountability.

In a similar way, inchoate party systems impede the proper functioning of accountability mechanisms by rendering more difficult the process of identifying and rewarding or punishing politicians. If party identities

regularly change, only the most attentive voters may be able to discern new parties from rebranded old parties. Clarity in the rules and in the contestants' identities facilitates accountability; instability in the rules and contestants' identities undermines accountability.

Finally, if vertical accountability is functioning, at least some incumbents should be replaced. Certainly, voters may reward politicians who meet their expectations with many terms in office. But low incumbent turnover could also suggest that the system improperly shields those in power from citizen oversight.

This chapter addresses vertical accountability—specifically elections—in four sections. The first section discusses the three conditions outlined above—accuracy, stability, and incumbent vulnerability—in more detail. The next three sections detail how each characteristic is manifested in Ukraine. The second section evaluates election quality over time, noting when the process has more accurately—or less accurately—reflected citizen preferences. The third section addresses the stability of rules and parties, discussing the implications of Ukraine's regularly changing political environment. The fourth section investigates incumbent turnover, noting the conditions under which politicians lose office. The chapter concludes by summarizing the successes and failures of vertical accountability in Ukraine.

### **Conditions for Vertical Accountability**

As I noted in earlier chapters, vertical accountability entails oversight relationships in which one actor is at a higher level of authority than another. Accountability can extend downward, as in the typical relationship between presidents and members of their cabinets,<sup>3</sup> or upward, as in the typical relationship between voters and elected officials. Work on vertical accountability often links to theoretical approaches related to delegation problems, as I discussed in chapter 1.

Governments generally rely on delegation of authority for several reasons. Some tasks are too complex for an individual to accomplish alone; government ministers cannot possibly implement all of the policies in their portfolios without a bureaucracy. Some tasks require specialized information or expertise that may not be widely shared, or a time

commitment that requires an agent who can focus attention on those tasks. Government delegation often consists of several layers of vertical accountability. Voters (principals) select representatives (agents) through elections. In the executive branch, presidents or prime ministers are transformed from elected agents to principals.<sup>4</sup> They further delegate to ministers (agents), who are simultaneously principals delegating to civil servants (agents). The risk of shirking—the failure of the agent to act in the interests of the principal—is ever present (Lupia 2003). Principals can also choose poorly due to inadequate information (adverse selection), or the behavior of agents can change once they gain their positions (moral hazard). The latter problem is especially acute if the principal cannot observe the behavior of the agent.

A critical factor that mitigates the potential problems in principal-agent relationships is access to information generally acquired through oversight mechanisms. The principal can rely on others to alert her to misbehavior by an agent (so-called “fire alarms”) or seek out opportunities to directly observe behavior and acquire information (so-called “police patrols”) (Mc-Cubbins and Schwartz 1984). For example, restaurants are often bound by health regulations. Representatives of government regulatory bodies could inspect restaurants once they have received credible reports of violations from the public (“fire alarm”), or they could send out inspectors to visit a sample of restaurants (“police patrols”). The former approach conserves agency costs, because a smaller group of inspectors could be hired to respond to complaints. However, the agency risks negative publicity if a preventable public health crisis emerges. The latter approach is more costly in terms of personnel, but could induce better behavior by restaurants if they are concerned that they *could* be visited by a health inspector at any moment. The “police patrol” would also inspect restaurants with no violations (potentially wasting time and resources) and could induce corrupt behaviors (tipping off restaurants where inspectors will visit next).

While the example of restaurant inspections is rather mundane, the same approach could be extended to elections. Citizens may rely on the news media or nongovernmental organizations that monitor elected officials for “fire alarm” or “police patrol” oversight. These interventions would help

citizens gather the information that they need to take action if elected officials are not performing well. The mechanism by which citizens hold officials accountable is the ballot box. For elections to serve as a vehicle to hold officials accountable, we would need to see that citizen preferences are accurately translated into election outcomes (i.e., elections are free and fair); the rules are relatively stable; parties are relatively stable and have meaningful platforms (if parties appear and disappear, then it is hard for citizens to hold them accountable); and incumbents can lose.

### **Do Elections Accurately Reflect Citizen Preferences?**

Several factors might undermine the accurate translation of citizen preferences into vote outcomes. At the level of the political system, generalized corruption or the use of administrative resources could distort elections. At the level of the electoral system, unstable rules may thwart citizens' efforts to hold officials accountable. At the level of the party system, volatility may obscure the link between voters and elected officials. At the level of the administrative system, manipulation of the counting or certification processes can alter the translation of voter preferences into outcomes. This chapter emphasizes issues related to electoral and party systems, but also touches on administrative systems.<sup>5</sup>

Most, if not all, large-scale elections experience errors. People who are not authorized to vote in a particular place or time may receive ballots; ballots that have stray marks or otherwise violate rules may be validated; partisan electioneering may intimidate voters in ways that alter their decisions to participate; officials may incorrectly record vote totals; or other distortions may enter into the public record. These errors may be due to lack of training or sophistication, or they may be intentional efforts to alter the course of the vote casting, counting, or certification. When these errors are committed by officials without malice, they may be considered **malpractice**; when they are intended to alter the outcomes, they may be considered **fraud** (see Birch 2012). Fraud may be localized and disorganized, but it can also be widespread, systematic, and decisive. Both malpractice and fraud can undermine the accurate translation of citizen preferences into election outcomes, although fraud is more insidious due to its intentional nature.



Concerns about efforts to improperly influence elections go back centuries, from early council elections in England to elections in colonial, nineteenth-century, and contemporary America (e.g., Cox 1868; Argersinger 1985-1986; Bense 2004; Campbell 2005; Cox and Kousser 1981). While scholars and observers initially focused on Western Europe and the United States, assessments of election quality extended all over the world (e.g., Callahan and McCargo 1996; Mikhailov 2000; Lehoucq and Molina 2002; Lehoucq 2003; Myagkov, Ordeshook, and Shakin 2005; Mebane 2006; Nichter 2008; Mebane and Kalinin 2009).

Identifying fraud is challenging because perpetrators use diverse tools. Several data sources can be valuable, but no single source is adequate to show definitively that fraud has occurred. International and domestic observer reports can illustrate abuses, but the data collection techniques are often not representative, so generalizations must be made with caution. Crowd-sourced violation data are valuable, but may produce false negatives or false positives. In many countries, these data may be reported disproportionately in urban areas and by young people, creating the possibility of a biased sample. Surveys of voters and polling-station officials are also useful, but expensive and complicated to conduct. Further, asking voters or officials to admit their own participation in fraudulent activities is likely to result in underreporting of these activities. Election results can also yield valuable information, and a range of forensic analysis approaches can be used to identify anomalous results. Researchers have also relied on ethnographic work, memoirs, formal complaints, and news accounts to evaluate election quality (Lehoucq 2003). Many studies in American politics (e.g., Cox and Kousser 1981; Wand et al. 2001; Herron and Sekhon 2003) and comparative politics (e.g., Sobyenin and Sukhovolskiy 1995; Mikhailov 1999; Myagkov and Ordeshook 2001; Lehoucq and Molina 2002; Birch 2007; Buzin and Lyubarev 2008) have used various sources of data and techniques to calculate systematic error in elections attributable to manipulation and fraud.

### ***Election Observation Reports***

International and domestic observers have been active in Ukraine's elections since the earliest stages of competitive elections.<sup>6</sup> The

Organization for Security and Cooperation in Europe (OSCE) has deployed the largest observation missions in the postcommunist region and has published reports on Ukraine’s national-level elections since 1998. Table 3.1 summarizes some of the findings in those reports, emphasizing challenges to election integrity that the OSCE noted as widespread.

According to the OSCE, none of Ukraine’s elections have met international standards, although the parliamentary elections in 2006 and 2007 and the presidential election in 2010 were arguably deemed the “best” quality. Bias among election commissions, campaign violations, ballot tampering, and protocol tampering were consistently present until the 2004 presidential elections and sporadically present afterward. Media bias and voter coercion (notably vote buying) have been endemic problems in Ukraine and continue to be reported up to and including the 2019 elections. Due to these issues, the OSCE and other international observer organizations have generally assessed Ukraine’s elections to be credible, but falling short of expectations in specific categories of performance.

Some of the problems the OSCE has identified over time, such as voter list issues, have been mitigated by institutional reforms (in this case, the creation of the State Voter Registry to centralize voter registration data). Other problems are more common in parliamentary elections than in presidential ones, notably inconsistent ballot access. The 2014 and 2019 election cycles presented additional challenges for free and fair elections due to the occupation of Ukrainian territory, issues with enfranchising internally displaced persons, and the threat of possible violence near the line of contact with the Russian-backed insurgency in Donbas. The security situation in the east and the occupation of Crimea presented especially acute challenges to enfranchising the whole population and ensuring that all citizens could safely participate in the electoral process.

**Table 3.1. OSCE Reported Violations in Ukraine**

Violation Type	Election Year
Voter List Problems	1999, 2002, 2004, 2006, 2007, 2012

Inconsistent Ballot Access	2002, 2012, 2014
Electoral Commission Bias <sup>a</sup>	1998, <i>1999</i> . 2002, <i>2004</i> . 2012
Media Bias <sup>b</sup>	1998, <i>1999</i> , 2002, <i>2004</i> . 2010, 2012, <i>2.014</i> . <i>2.019</i> . 2019
Improper/Unequal Campaigning <sup>13</sup>	1998, <i>1999</i> , 2002, <i>2004</i>
Voter Coercion <sup>d</sup>	1998, <i>1999</i> . 2002, <i>2004</i> . 2012, <i>2014</i> . <i>2014</i> , <i>2019</i> . 2019
Ballot Tampering or Ballot-Box Stuffing <sup>e</sup>	<i>1999</i> , 2002, <i>2004</i> , 2007
Protocol Tampering	<i>1999</i> . 2002, <i>2004</i> . 2006, 2014
Inconsistent Ballot Invalidation	2002, <i>2004</i>

*Note:* Presidential elections appear in the table as italic and underscore.

<sup>a</sup>This item primarily refers to the composition of commissions, but in some reports, commission decisions are singled out for criticism.

<sup>b</sup>If a candidate or party is noted as having disproportionate media coverage (positive or negative), the election is categorized as having biased media. Typically, OSCE reports rely on media monitoring by the OSCE, the European Institute on the Media, or other organizations.

<sup>c</sup>This category includes improper canvassing in or around polling stations, improper posting of campaign materials, activities designed to intimidate opponents, or improper restrictions on campaigning.

<sup>d</sup>This category includes notations about general intimidation, as well as the improper presence of officials (especially law enforcement and local government officials) in precincts, or officials directing voters to cast a ballot for a particular candidate or party (this is especially notable in special precincts for the military, hospitals, and prisons). It also includes efforts to buy votes.

<sup>e</sup>This category includes multiple voting.

Domestic observers also point to violations of election rules. In the 2012 parliamentary elections, two domestic groups (Maidan Monitoring and ElectUA) organized extensive crowdsourcing of election violations. Instead of relying solely on election observers deployed to polling stations, these organizations empowered citizens to use mobile devices and report allegations of fraud. Both groups developed methods to vet the reports and reduce the likelihood that “false positives” or intentionally misleading material would enter the data set. The most common reports were of campaigning violations (816 reports in the Maidan data, 867 in the ElectUA data), improper behavior by administrators (348 by Maidan, 172 by Elect UA), and vote buying (235 by Maidan, 187 by ElectUA). These data are especially valuable because they provide insights into illicit activities that occur outside of polling stations—and generally out of the view of official election observers.<sup>7</sup>

While many other international and domestic organizations evaluate elections, the OSCE reports are a valuable bellwether because they tend to set the tone for the overall “grade” that elections receive. Ukraine’s elections may show progress in terms of their integrity, but all of the

contests have fallen short of international standards. In sum, observation reports identify three important features of Ukraine's elections. First, citizen preferences have influenced the outcomes since independence. The most egregious violations occurred in 2004, and citizen action along with institutional responses overturned those election results. Second, while citizen votes matter, they have not been fully reflected in election returns. Evidence of localized fraud and other forms of vote manipulation render elections imperfect vehicles for vertical accountability. Third, as Ukraine has cleaned up the administrative process, reducing or eradicating some forms of manipulation, new challenges to free and fair elections have emerged. The most recent—and daunting— problem is the occupation of Ukrainian territory that disenfranchises citizens and deprives regions of parliamentary representation.

### ***Survey Data***

Public opinion data also provide insights into electoral practices in Ukraine, and they lead to interpretations similar to those of the observer reports.

Surveys of Ukrainian citizens show cynicism about electoral processes, with some variation over time. Polls conducted by the International Foundation for Electoral Systems (IFES), a US-based nongovernmental organization focused on providing technical support for elections, illustrates how citizen attitudes vary. Survey responses about voting as a mechanism of vertical accountability indicate Ukrainian skepticism regarding elections. When asked if “voting gives people like you a chance to influence decisionmaking in our country,” the majority of Ukrainian respondents indicate that they strongly or somewhat disagree, save for a short period during and after the Orange Revolution (IFES 2005). By 2008, only 18% of Ukrainians agreed with this statement (IFES 2008);<sup>8</sup> the perception rebounded to 53% in September 2014 before falling below 50% (IFES 2015). Other surveys by international and Ukrainian organizations yield similar findings: the perception of citizen efficacy among Ukrainians is limited.

In addition to expressing pessimism about elections as mechanisms for accountability, Ukrainian citizens have doubted their integrity over much of

the post-Soviet period. In 1999, prior to the presidential election, 24% of respondents expected the elections to be completely or mostly honest; 58% expected them to be dishonest. This distribution of attitudes was similar when respondents were asked about aspects of the process (e.g., campaigning, administration, vote counting) (Ferguson 1999). By 2014, attitudes about election integrity had improved, but many Ukrainians remained suspicious. In a poll taken around the time of the May 2014 presidential elections, 46% of Ukrainian citizens expected that the elections would be at least “reasonably free and fair” while 37% indicated that flaws would undermine election integrity (IFES 2014). Attitudes about election quality substantially improved after the 2019 presidential elections; in a May 2019 survey, 82% of respondents indicated that they believed elections were somewhat or completely free and fair (IRI 2019).<sup>9</sup> These results may be a short-term reaction to the election of President Zelenskyy, or they may reflect improving attitudes about election quality.

Experts echoed citizen concerns about electoral processes. The Electoral Integrity Project uses expert surveys to evaluate procedural adherence to appropriate administrative standards. In other words, this survey asks: how well does election administration perform? Ukraine is situated just below the median of post-Soviet countries, performing better than some of its neighbors (Armenia, Azerbaijan, Belarus, Kazakhstan, Russia, Tajikistan, Turkmenistan, and Uzbekistan) but worse than others (Estonia, Georgia,

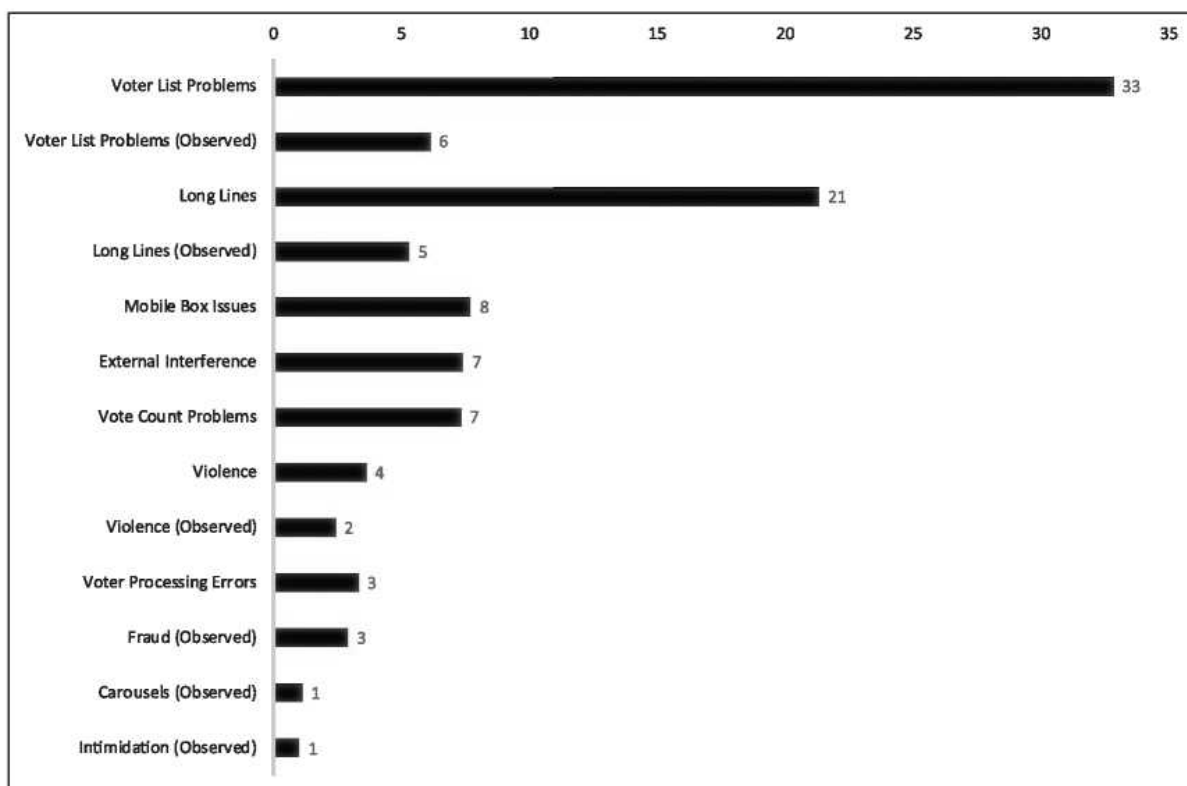


Fig. 3.1. Anticipated and Reported Problems, 2014 Parliamentary Elections

*Note:* The black lines associated with the item indicate the proportion of PEC officials who responded that they expected the issue noted to be a problem in their polling station. The lines associated with items listed as “observed” indicate the proportion of observer reports submitted by the Committee for Open Democracy observation teams that indicated the problem was present. The PEC surveys were developed by the author and Nazar Boyko, with consultation from IFES and KIIS. Committee for Open Democracy data were collected from 375 PECs in Chernihiv, Dnipropetrovsk, Donetsk, Kharkiv, Kyiv, Lviv, Odesa, and Zaporizhia.

Latvia, Lithuania, Kyrgyzstan, and Moldova). It is situated just above autocratic states, and at the bottom of democratic or semi-democratic countries in the region. Ukraine’s overall score relies upon surveys related to elections in 2012 and 2014; it performed substantially better on all markers in 2014.<sup>10</sup>

Ukraine’s improvements to electoral integrity in 2014 are also illustrated by surveys of election officials during the 2014 parliamentary elections. In collaboration with a Ukrainian NGO (CIFRA Group), the Central Electoral Commission, and the Kyiv International Institute of Sociology (KIIS), I fielded pre- and post-election surveys of election officials assigned to work in polling stations.<sup>11</sup> The pre-election survey asked respondents to

identify issues that they expected to encounter in the polling stations. Figure 3.1 shows the proportion of respondents who identified specific issues.

I also worked closely with a US-based NGO, the Committee for Open Democracy, whose observation teams visited 375 polling stations in Chernihiv, Dnipropetrovsk, Donetsk, Kharkiv, Kyiv, L'viv, Odesa, and Za-porizhia oblasts. Observation teams filed reports for each polling place they visited. The proportion of reports identifying specific problems is noted on the figure with each item labeled "observed."

The figure suggests that officials anticipated more significant problems with voter lists and long lines than were observed on election day. Respondents' expectations that violent acts would occur were relatively low (3.6% in surveys and 2.4% in reports) and roughly equivalent to the findings of election observers. Observers were not asked directly about mobile ballot boxes, external influences, or vote count problems, but did report about evidence of fraud more generally, and voting carousels specifically. When comparing the two sets of data, it appears that officials overestimated the likelihood of problems emerging on election day. Despite the challenges presented by the snap elections during wartime, Ukrainian administrators were able to minimize challenges to credible elections.

In a 2019 follow-up study, conducted in cooperation with KIIS prior to the parliamentary elections,<sup>12</sup> election administrators reported similarly positive views of the electoral process. A majority reported that they had received training (77%) and that their polling places were prepared for election day activities (51%).<sup>13</sup> When asked about specific concerns about election day, 12% expressed concerns that they might make an inadvertent error in procedure, but 5% or fewer reported concerns about security, violence, receiving their pay, or being accused by observers of improper behavior. Lastly, only 3% of respondents reported outside pressure on the commission in its decision-making.

Survey data provide a story similar to that of the observation data. If we consider the totality of Ukraine's independence period, Ukrainian citizens have generally expressed pessimism at the integrity of elections and their ability to effect change through electoral processes. Some of the



survey data suggest that there are grounds for pessimism, notably Ukraine's middling performance among its post-Soviet peers in expert evaluations. At the same time, election processes seem to be improving, evidenced by the reduction of pessimism in citizen surveys, especially in 2019, and the positive evaluations of administrators in 2014 and 2019. While election officials expected a wide range of problems to emerge in 2014, they seem to have been far more limited on the ground. This is a notable accomplishment for elections held during wartime conditions.

### ***Election Results***

The forensic study of election results can provide insights into the quality of election processes. The underlying principle of forensic studies is that perpetrators of fraud perform their craft poorly; they often leave evidence of manipulation in the data. The markers of intervention in the counting and aggregation processes can be deduced by applying forensic assessments to the distribution of results data, assessing evidence of unusual outcomes such as highly elevated turnout or support for particular candidates, or distributions of the data that defy well-defined expectations.

Because the techniques associated with fraud can vary, so too must the detection methods. While the tools are diverse, scholars emphasize tests of data distributions based on insights from mathematics and statistics; assessments of turnout and ballot invalidation in standard and special polling places; and analysis of other unexpected patterns of voter or administrator behavior such as surprising distributions of candidate support, delays in the vote count, or divergence between official vote counts and parallel vote counts conducted by observer groups. These types of tests have revealed problems in Ukraine's election results over the course of its postcommunist history.

Ukraine's Central Electoral Commission has consistently reported district-level results during the post-Soviet era.<sup>14</sup> It began making precinct-level (or polling station-level) data widely available in 2002. These data are especially valuable for the application of forensic assessments because they allow researchers to analyze results for anomalies at the proper level of aggregation. Interference in elections can be masked when data are reported

at the district, regional, or national levels. The polling station—where citizens personally cast their ballots—is the lowest observable level for election data.

The value of polling station data to reveal potential misdeeds became evident with their publication in 2002. Ukrainian election law permits citizens to vote in special precincts to accommodate voters who may not be able to go to polling stations on election day. While the rules are intended to enfranchise potentially vulnerable voters, they also raise the possibility of interference. Voters in special precincts, especially hospitals and prisons, are subject to agents of the state. If state-affiliated actors (doctors, nurses, prison guards, and so on) are compelled to “deliver the vote” then they may interfere in the process and distort the intended behavior of voters. Polling station data provides important insights into this process (Herron and Johnson 2008).

Table 3.2 displays the results of voting in all special precincts during the 2002 parliamentary elections, in standard deviation terms. If the data are normally distributed, then 68% of results should be within one standard deviation and 95% should be within two standard deviations of the mean. These results demonstrate that performance in special precincts differs from that in traditional precincts in ways that suggest interference by state agents. The results further show that the regime-supported bloc “For a United Ukraine” benefited from this interference by performing better than its rivals in special precincts, sometimes at levels that are highly unlikely to be produced naturally.

The extreme outlier on table 3.2 is the vote tallies for the party list ballot of the proregime For a United Ukraine in prisons; it is 4.5 standard deviations above the mean. This outlier is highly unlikely to have been produced naturally; it is more plausibly explained by intimidation or ballot box stuffing.

**Table 3.2. Results in Special Polling Stations, 2002 Parliamentary Elections**

Party	Embassy	Hospital	Prison	Ship
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For a United Ukraine	+0.99 / NA	+0.57 / +0.19	+4.50 / +1.86	+ 1.58 / +1.67
Communist Party of Ukraine	-0.81 / -0.58	-0.02 / -0.10	-1.09 / -0.42	-0.75 / -0.46
Our Ukraine	0.12 / 0.07	-0.28 / -0.18	-0.97 / -0.63	-0.92 / -0.77

*Note:* The values in the cells indicate the number of standard deviations from the grand mean for the party. The left-hand entry is for the proportional representation ballot and the right-hand entry is for the single-seat district ballot.

Indeed, all of the results for the party For a United Ukraine are elevated, while its major competitors (Communist Party of Ukraine and Our Ukraine) perform worse in special polling stations.<sup>15</sup> The 2002 election was marred by irregularities beyond special polling places, but these data give insights into how actors on the ground manipulate results.

I observed Ukraine's parliamentary elections in 2002 and witnessed how the conditions in special polling places may distort voter intent. While visiting a hospital, I discussed the election process with a domestic observer. He reported that the mobile ballot box, used for voters who cannot come to the polling place due to physical impediments, was dispatched to patient rooms. The observer further alleged that nursing staff members instructed voters how to fill out the ballots, indicating which candidates and parties they should support and watching patients complete their forms. This report of state agents influencing the process is consistent with other observers' experiences: an international observer colleague reported to me that she witnessed prison officials requiring prisoners to display their ballots before placing them in the ballot box. At a later date, a

university faculty member related to me the pressure she felt from the university administration. Faculty members were told, according to this individual's recollection, that precincts located near student dormitories needed to produce proregime results or faculty members would be punished. She noted that instructors pressured students in response to this intimidation from above. Researchers have also uncovered similar kinds of workplace intimidation affecting votes outside of Ukraine (Frye, Reuter, and Szakonyi 2014).

The mechanism of **voter** manipulation—intimidating voters to behave in ways that might differ from their intent—has been on full display in Ukraine's special precincts, although it is not limited to these types of precincts. Polling places also witness **vote** manipulation in which administrators alter ballots or other documentation to produce their preferred results (Sjoberg and Herron 2013). One method to detect patterns of manipulation—either **voter** manipulation or **vote** manipulation—is the forensic analysis of the results across all polling places. A major tool in this effort is digit distribution tests, based on the work of the mathematician Frank Benford. Benford found that naturally produced data often follow patterns; deviations from these patterns raise concerns about the provenance of the data in question. His ideas have been applied extensively to the study of elections (e.g., Mebane 2006; Mebane and Kalinin 2009; Beber and Scacco 2012)

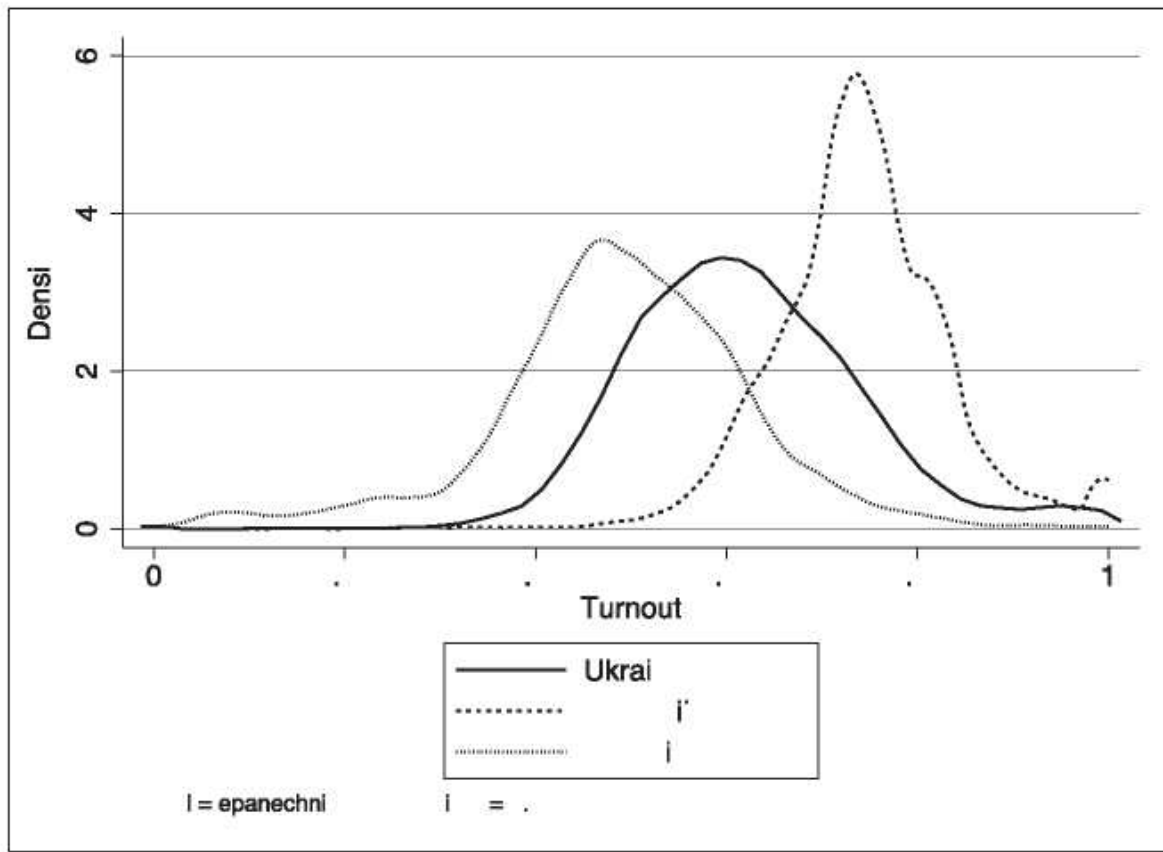


Fig. 3.2. Comparison of Turnout Data, Ukraine, Azerbaijan, and Georgia

where evaluations of the distribution of polling station data have generated evidence of suspect tabulations.

Ukrainian elections show evidence of anomalies stemming from this type of analysis. The 2012 elections produced evidence of irregularities in the results: the frequency of zeros was unusually high in the party list results and the frequency of other digits was unusually low in both the party list and constituency results (Sjoberg and Herron 2013). When digit distribution tests are applied in Ukraine, they have produced evidence of abnormalities plausibly attributable to fraud.

While analyzing the results is a fruitful method of assessing the quality of elections, polling stations produce other valuable data. Data on turnout, for example, can also generate concerns about the integrity of the process. When officials attempt to stuff ballot boxes, they can abnormally elevate turnout because they place more valid ballots in the ballot boxes

than “nature” should generate. Extreme efforts to stuff ballot boxes can be revealed when districts report 100% or near-100% turnout. For context, it is useful to evaluate Ukraine’s 2012 turnout data in comparative perspective. Two of Ukraine’s post-Soviet neighbors also conducted elections at roughly the same time: Azerbaijan and Georgia held presidential elections in 2013. The international community assessed Azerbaijan’s elections as highly problematic, whereas Georgia’s elections were more positively assessed. Figure 3.2 shows how final polling station turnout reports varied in these two elections. Georgia’s data are close to a normal distribution, with a mean value between 40% and 50%, and the right-hand tail trailing off, with few polling stations reporting turnout at or near 100%.<sup>16</sup> Azerbaijan, by contrast, shows a higher concentration of polling places with elevated turnout—between 70% and 80%—and a “hump” in the right-hand side of the tail between 95% and 100% turnout. This reflects a high concentration of polling places with near-“perfect” turnout. Ukraine is situated in between these two outcomes: the mean polling station turnout is around 60%, and the data are generally shaped like a normal distribution. However, Ukraine’s results are elevated above Georgia’s as turnout approaches 100%. While Georgia’s elections were not perfectly in line with international standards, the distribution of turnout is closer to what one would expect from a contest without extensive manipulation. Azerbaijan’s turnout results suggest egregious fraud. Ukraine’s data suggest intervention in the electoral process, but not as extensive as in Azerbaijan.

Ukraine’s election data from the 2014 election cycle provide different insights into the challenges that citizens, candidates, and administrators faced. These challenges were due primarily to the annexation of Crimea and occupation of Donbas. Millions of Ukrainian voters were disenfranchised, and security concerns probably dissuaded voters from participating. In the 2014 presidential elections, 24 district commissions and 2,556 polling station commissions were closed due to conflict. In the 2014 parliamentary elections, 15 district commissions and 1,746 polling stations were closed. Comparing elections that were conducted in 2010 and 2012 to the 2014 contests, around 4.2 million potential supporters of the Party of Regions and its affiliates may have been excluded from the elections (Herron, Tun-berg, and Boyko 2015; Herron, Boyko, and Tunberg 2017). While the elections did not produce evidence of fraud similar to contests in

2012 or 2002, the election results suggest that the intent of voters may not have been reflected in outcomes due to disenfranchisement. The conditions limiting the ability of voters to express their preferences in the east and Crimea persisted in 2019.

While election results data can reveal potential problems with the translation of voter preferences into outcomes, they can also provide evidence of reasonably smooth processes. A few elections stand out for the limited evidence of improper interference in the process. The two parliamentary elections held after the Orange Revolution in 2006 and 2007 (Herron 2008) and the presidential election in 2010 (Herron 2011a) were generally free and fair, although observers noted some evidence of improper behavior. The 2010 presidential election is especially important because it produced a peaceful transfer of power from the forces that won the Orange Revolution back to the very candidate whose supporters had attempted to steal the election in 2004.

Several empirical measures illustrate why the 2010 elections were of higher quality than most others in Ukraine's history: The distribution of digits in polling places showed few deviations from a Benford-type distribution, few polling stations were extreme outliers in turnout (at or near 100%), neither candidate disproportionately benefited from polling places where they enjoyed near unanimous support, and the level of invalid ballots was not connected to candidate performance. While both candidates suspiciously "lost" votes between the first and second rounds—Yanukovych in Ternopil and Tymoshenko in Luhansk—the scale of these anomalies was small (Herron 2011a). The 2010 election revealed some evidence of probable fraud, but manipulation was not widespread, systematic, or decisive.

Election results provide important insights into the quality of elections. As this section has noted, even the best-quality elections in Ukraine have yielded evidence of possible fraud. However, in these cases, it is unlikely that the preferences of citizens were altered by illicit interference in the casting, counting, or certification processes. Ukraine's elections before and after this limited period of time (2006-2010) are more problematic. Even during these more problematic times, large-scale, egregious efforts to alter election outcomes were limited, reaching their

apex in 2004. The greatest threat to elections in the post-Euromaidan period is the high levels of disenfranchisement and displacement caused by Russian annexation of Crimea, its occupation of territory in Donbas, and ongoing kinetic warfare.

In sum, Ukraine's election processes do not always reliably translate voter preferences into credible outcomes, but these problems have tended to be limited to specific locations since 2004. That is, results *at the national level* have not been in serious doubt since 2004's presidential election. However, results *in specific districts or municipalities* have been tainted by potential fraud or other impediments to free and fair competition. Persistent interference in elections, even in a more limited form, undermines accountability.

### **Are Electoral and Party Systems Stable?**

Ukraine's political history provides an additional complication to the use of elections as vertical accountability mechanisms. An underlying expectation of vertical accountability is that the rules dictating how votes are translated into seats—commonly referred to as the electoral system—do not change substantially over time. Ukrainian politicians, however, regularly alter election rules.

The stability of election rules is important because they are linked to the ways in which the public judges politicians. Electoral systems that allocate seats from geographically delimited districts in which representatives are selected to seats via a plurality or majority rule imply a personal connection between voters and elected officials. In these districts, accountability to the voters flows through the representative's service to the district.

Electoral systems that allocate seats based on larger multiseat districts in which parties earn a proportion of seats based on the votes they receive generate different accountability flows. Candidates in these systems may be selected via a closed list and the party determines the order in which seats are allocated. Citizens thus hold parties collectively accountable—choosing the political party or its rival on the ballot—but have little control over which specific legislators are chosen. If the party list system is based



on an open list, voters select individual candidates whose fate is determined both by the personal votes they receive and the overall votes that their affiliated party garners. Electoral systems that combine constituency-based and party-list approaches to allocating seats—called mixed-member systems—generate an even more complex array of accountability relationships. Ukraine has used each of these systems at the national or local levels in the post-Soviet independence era. This section discusses variation in electoral systems over time and the implications of instability.

## ***Electoral Systems***

Selecting an electoral system—the set of rules by which citizens’ votes are translated into seats—is considered to be among the most crucial decisions in the democratization process (Lijphart 1994). Electoral systems do not emerge from a tabula rasa in the minds of the new leadership transitioning from authoritarian rule (e.g., Carey 2018; Colomer 2018), but rather develop based on the conditions present at the time of transition. Most countries—even dictatorships—hold elections, although they may fall far short of reasonable expectations for free and fair competition. When elections are held openly and freely, the electoral systems help structure the competitive environment among candidates and parties, the connections among citizens and their representatives that determine how voter preferences are translated into policy, and the relationships that are central to accountability.

The Soviet system featured elections throughout its existence. Prior to the formal founding of the Soviet Union in 1922, but after the Bolshevik Revolution in 1917, semi-competitive elections were held all over the country. While non-Bolsheviks could not compete, most of the rules were not standardized and generated “delightful irregularity” in the methods used to choose officials (Carson 1955, 9). Institutional rules, including the electoral system and ancillary laws, were consolidated with the codification of the Stalin Constitution in 1936. Elections held from this point until the twilight of the Soviet era included all of the stereotypical features: ballots displayed one candidate nominated by the Communist Party of the Soviet Union (CPSU) and voters “selected” their preferences via a “negative ballot.” With a negative ballot, voters cross off the names of

candidates they do not support. This rule effectively served as a way to guarantee victory for the party's selection and as a method to identify potential troublemakers. Regime supporters would simply take their ballots directly to the ballot box; dissenters would enter a voting booth to record their negative vote (Swearer 1961).

As I noted in the previous chapter, Mikhail Gorbachev embarked on three major reforms after his selection as general secretary of the Communist Party in 1985. His *glasnost* reform promoted “openness,” especially in self-critiques that could improve the functioning of the economic system. *Perestroika* was aimed at restructuring the economic system, including a reintroduction of small-scale market enterprises similar to the New Economic Policy instituted in the 1920s. *Demokratiya* promoted the introduction of competitive elections to advance citizen participation in decisionmaking.

It is important to acknowledge that despite the use of the word *demokratiya* —“democracy” in Russian—Gorbachev’s plans did not encompass a democratic *transition*. Gorbachev focused on institutional tinkering that could preserve the Communist Party and the socialist system, making it more efficient, innovative, and popular. While the intent was not to bring about regime transition, transition was the result.

One of the institutional reforms that helped propel transition forward was the establishment of the Soviet Congress of People’s Deputies. This new legislative body featured—for the first time since the early stages of the Soviet state—competitive elections.<sup>17</sup> Like those at the dawn of the USSR, only the CPSU was permitted to nominate candidates. However, non-party-affiliated candidates were allowed to contest seats, and many won seats (Herron 2009).<sup>18</sup>

National-level elections for the Congress of People’s Deputies led to elections in the Union Republics for local legislatures. In 1990, Ukrainians elected representatives for its legislative assembly, the Verkhovna Rada (Supreme Council). The electoral system for the 450-seat Verkhovna Rada consisted of single-seat districts (SSDs) with winners chosen by majority-runoff rules still using the negative ballot.<sup>19</sup> Ukraine

followed its legislative elections with direct presidential elections in 1991, also using majority-runoff rules. Leonid Kravchuk prevailed and became the president who would oversee the initial stages of transition in Ukraine following Soviet collapse at the end of 1991.

All fifteen Union Republics emerged from the USSR's dissolution in late 1991 as independent states. Some, like Ukraine, had advocated for independence, while others had independence unexpectedly thrust upon them. The newly independent states faced significant challenges: they had to simultaneously establish state capacity by hardening borders, creating independent militaries, and generating government revenue; develop new political institutions; dismantle the centrally planned economy and move toward a market economy; establish foreign policy objectives and institutions; and unify the population as loyal citizens of new countries.

In some cases—such as the Baltic states—the tasks were less challenging. Estonia, Latvia, and Lithuania had been annexed as a result of the Nazi-Soviet Molotov-Ribbentrop Pact, but had existed as independent states with populations whose identities were associated with those countries. In other cases—such as the five new countries in Central Asia—the challenge was greater because they had never been sovereign states. Ukraine found itself somewhere in the middle. It had a long history, peppered with efforts to establish a modern, independent state. It was also endowed with diverse agricultural and extractive resources that could form the foundation of a modern, competitive economy. But Ukraine's economic development had been tied to Soviet planning; its heavy industries, largely concentrated in the eastern regions of the country, were not up to international standards (with some exceptions, such as the Antonov aircraft company). It also shared a large border with Russia and Belarus that would transform into an international border, disrupting trade and personal relationships.

Given these challenges, it is not surprising that Ukraine's early years of independence were chaotic. Growing unrest, manifested in public protests and strikes, led to early elections in 1994. While Ukraine had held parliamentary and presidential elections in the late Soviet period, these were not truly “founding” elections because they were held under restrictive Soviet rules.<sup>20</sup>

Relative to its peers in the post-Soviet space, Ukraine was a laggard in the development and codification of new formal institutions: its post-Soviet constitution was only ratified in 1996, last among the successor states. The March 1994 Verkhovna Rada elections and June 1994 presidential elections are more properly viewed as the first in independent Ukraine, and thus the “founding” elections. These founding elections were also relatively late by the standards of the postcommunist world.

The electoral system enacted in 1993 for the 1994 parliamentary elections was quite similar to the Soviet-era electoral system: Ukraine was divided into 450 geographically defined districts, winners were determined in a majority-runoff system, and voters cast negative ballots. Politicians considered adopting a mixed-member electoral system at the time, but many also perceived the majority-runoff system to be a solution to a “branding” problem: members of the political elite whose reputations could be tarnished by associations with the Communist Party could obscure these connections by contesting as unaffiliated independents.<sup>21</sup> The implementation of the electoral system proved to be problematic, especially because minimum turnout requirements and majority rules prevented some districts from electing representatives.<sup>22</sup> Only 338 of the 450 seats were filled, and some remained empty even after several by-elections (Birch 1995, 1996; Bojcun 1995).

The challenges posed by election laws, especially the problematic combination of a majority-runoff formula, turnout requirement, and negative ballots, prompted a revision of the electoral system. A new election law adopted a mixed-member majoritarian (MMM) electoral system in which one half of the Verkhovna Rada’s seats would be allocated by SSD races decided by a plurality formula (also known as “first-past-the-post” or FPTP), and the other half would be allocated by a nationwide proportional representation system (PR). The SSD ballot would feature individual candidates who could run as party-affiliated candidates or as non-affiliated independents; the PR ballot would list the political parties contesting seats. Voters could cast a vote for their local representative and also for the political party they preferred. The candidate with the most votes in the constituency would win the SSD seat; any party receiving more than

4% of the PR vote would be allocated a proportion of seats based on the Largest Remainders-Hare formula.

Mixed-member electoral systems, like the one adopted in Ukraine, became quite popular among institutional designers in the 1990s. Many postSoviet states, such as Russia and Lithuania, selected these systems, and they were also adopted in established democracies such as Italy, Japan, and New Zealand. I conversed with one of the law's authors in 1999, and he asserted that the new system emerged from careful study of the scholarly literature on elections, including consultations with experts. He also acknowledged that partisan interests influenced the choice, as his party expected to improve its performance in 1998 from its showing in 1994.<sup>23</sup>

The main controversy associated with the MMM system was the provision that permitted candidates to contest in a constituency and on the party list simultaneously. The "dual candidacy" rule raised the question of ballot access; because independent candidates could not contest the party list seats, the provision allegedly treated candidates differently. The debate over dual candidacy also speaks to the issue of accountability. In other mixed-member systems, dual-listed candidates could lose a district race but be elected to parliament via the party list. This aspect of mixed-member systems has been derided as an affront to vertical accountability: how can candidates rejected by voters still obtain parliamentary seats? The debate has spawned negative terms for these dually nominated list winners, such as "zombies" (an appellation originating in Japan). The Constitutional Court ruled that dozens of provisions were noncompliant, including dual candidacy, but permitted the 1998 elections to move forward provided the law would be altered for the next elections (Wilson and Birch 1999). Modifications to the election law formally outlawed dual candidacy in 2002 and introduced other minor changes to the system.

As I noted in the previous chapter, Ukrainian citizens challenged the Kuchma regime through large-scale public protests in 2000-2001. The "Ukraine without Kuchma" movement was ultimately unsuccessful, but it laid the groundwork for the 2004 Orange Revolution. It also energized the political opposition to Kuchma's regime that would lead to substantial successes in the 2002 elections. Prior to these elections, the political

opposition advocated for electoral-system reform to discard the MMM system in favor of a pure nationwide PR system. A major factor motivating these efforts was a desire to improve election integrity: the opposition argued that constituency races were more conducive to election fraud, especially the use of administrative resources that could alter results through ballot-box stuffing, voter intimidation, modification of election documentation, or other forms of illicit interference. While a coalition of opposition parties successfully passed bills to modify the electoral system, President Kuchma vetoed them prior to the 2002 elections.

In 2004, however, President Kuchma's legislative agenda changed. Opposition successes in the 2002 elections raised the possibility that they could mount an effective challenge to whomever would succeed the term-limited Kuchma in the 2004 presidential election. Kuchma developed a package of constitutional reforms in anticipation of his departure from the presidency and negotiated with parties for their support in exchange for his willingness to sign off on electoral-system reform. The Communist Party and Socialist Party agreed to support constitutional reform if it was packaged with electoral-system reform; the antiregime opposition supported electoral-system reform but opposed constitutional reform. The new law enacting electoral-system reform—including the adoption of nationwide PR with a 3% threshold—was ultimately codified. Constitutional reform, however, failed to receive the required supermajority (see Herron 2007 and 2009 for a deeper discussion).<sup>24</sup> Ukraine once again altered its electoral system, becoming the country with the largest assembly in the world selected via nationwide PR when elections were held in 2006. After the collapse of the governing coalition, Ukrainians went to the polls for snap elections in 2007 using the same electoral system as in 2006, with minor administrative changes to the rules.

When Viktor Yanukovych acceded to the office of president in 2010, discussions about electoral-system reform returned. Another modified election law passed parliament prior to the 2012 parliamentary elections, reinstating the MMM system with a higher threshold for parties in PR (5%). The first version of the law permitted dual candidacy, but this provision was once again deemed unconstitutional and it was removed from the final law. The 2014 snap elections, held after Yanukovych abdicated

the presidency in the wake of Euromaidan protests in 2013-2014, retained the MMM system with minor revisions.

Reform discussions returned to the political agenda in 2016. Ukrainian politicians experimented with a hybrid of constituency and proportional representation rules in the 2015 local elections, which many observers labeled open-list proportional representation (OLPR).<sup>25</sup> The electoral system used for local councils did not conform to standard forms of OLPR, however. Voters in the local elections received a ballot that included the names of the parties, party leaders, and locally nominated candidates. Each vote for a party was first counted for the party itself; the proportion of votes received would determine overall seat allocation. After election administrators determined the number of seats to be distributed to each party, they would be allocated to individual representatives. The first seat for every party passing the threshold of representation would be allocated to the leader. Any additional seats would be sequentially allocated to the individual candidates who received the highest proportion of the vote in their districts.<sup>26</sup> This system, and other alternatives, were publicly debated from 2016 to 2019.

Electoral-system reform continues to be a hot topic among the political elite. In late 2019, parliament adopted a new election law for the next elections. This reform would institute OLPR, with Ukraine divided into twenty-seven regions for seat allocation. The apportionment of seats to the regions would take place after the elections and would be based on turnout.<sup>27</sup> If these rules are retained, Ukraine will once again alter fundamental features of its electoral system. However, if history serves as a guide for election reform, politicians may initiate new efforts to alter the system prior to the next election cycle.

As this review demonstrates, Ukrainian politicians have regularly modified the electoral system. Ukraine has held eight post-Soviet parliamentary elections and has substantially modified its system for half of those elections. By contrast, the presidential election rules have been remarkably stable. All five of the presidential contests have used a majority-runoff system. The choices of specific electoral systems, and the

frequency with which they are changed, have important implications for accountability.

Electoral systems vary along many important dimensions, including the degree to which candidates must seek personal or party votes to obtain seats (Carey and Shugart 1995). When voters select individual candidates who must pass a threshold to gain seats, under systems such as FPTP or OLPR, the candidates have strong incentives to build support in their local constituencies. Because voters choose individuals, they can hold individuals directly accountable for their actions. When voters select parties, and parties determine which candidates are placed in electable positions under systems such as CLPR or the variant used in Ukraine's local elections, candidates have weaker incentives to respond to voters and stronger incentives to respond to party demands. Voters may hold parties collectively responsible, but cannot hold individual representatives to account.

Ukraine has held most of its elections under systems in which at least half of the seats are chosen via rules promoting personal vote-seeking: majority-runoff elections in 1994, and MMM in 1998, 2002, 2012, 2014, and 2019. The reforms for the next elections would retain a personal voteseeking component, but the specific mechanism would change. Only the 1994 elections featured pure personal vote-seeking rules; half or all of parliament was selected by PR in every other election. The 2006 and 2007 national parliamentary elections gave citizens the opportunity to hold parties accountable, but they did not have the opportunity to express preferences about individual candidates.

From election to election, Ukrainian citizens do not know how their elected officials will be selected. Sometimes, decisions about election rules have been finalized a short time prior to election day. Because the rules determine whether politicians can be held accountable individually or must be held accountable collectively, instability in the election rules generates impediments to vertical accountability.

### ***Party System***



The previous section established that shifting rules undermine vertical accountability. But, the extent of instability is not fully captured by the changes described above. The attachments candidates select as a collective identity— political parties—have also varied substantially over time in Ukraine. In established democratic societies with institutionalized party systems, parties tend to articulate a clear set of principles represented by a stable identity. But Ukraine's party system has been unruly and inchoate. If citizens do not know what the parties are, or what they represent, how can citizens hold them accountable at the ballot box?

At the time of the Congress of People's Deputies elections in 1989, only the Communist Party of the Soviet Union (CPSU) was permitted to participate as a formally recognized organization. By the time that Union Republics held regional elections in 1990, alternatives to the CPSU could appear on the ballot and politicians began to create party organizations.

The inexperience of emerging leaders, lack of resources, and focus on personality rather than platform undermined the establishment of long-lasting party organizations in Ukraine (Birch 2000) and elsewhere in the USSR (Herron 2009).

Despite their limitations, the new opposition formed a loose coalition called the Democratic Bloc, consisting of candidates associated with protoparty organizations, and earned 111 seats. The most enduring label among these emerging parties was Narodnyi Rukh (People's Movement), which has continued to exist in some form throughout Ukraine's post-Soviet era.

Arguably, the first institutionalized political party in Ukraine was the Communist Party of Ukraine (CPU), the successor to the Soviet-era organization. While it was banned from competition initially, the CPU was registered as an official party in 1993. The CPU benefited from the personnel resources, organizational capacity, and brand name that it inherited from the CPSU. Additional parties emerged over time, but they varied substantially in the quality and extent of their resources, organization, and brand.

Depending on how one defines political parties, Ukraine has had hundreds—or only a handful—emerge since 1991 (Wilson and Bilous 1993). If we emphasize political parties as groups of ambitious politicians who

work together to win elections (e.g., Epstein 1980; Schlesinger 1991), then Ukraine has had many parties. If we require that these groups have developed internal rules and procedures (Aldrich 1995), organizations to effectively govern (Downs 1957; Key 1964), or a host of other features, then the number of Ukrainian parties is substantially reduced.

An impediment to the growth and development of political parties is the extensive opportunity for nonaffiliated candidates to contest elections. The rules in late Soviet and early post-Soviet elections supported participation by independents, and many candidates competed in constituency races without an affiliation. These independents often took advantage of alternative financial and technical resources that substituted for parties.<sup>28</sup> Further, candidates built local political machines that facilitated their success in elections and independence from formal party constraints (Herron and Sjoberg 2016).

The weakness of Ukrainian political parties may be best summarized in the following way: no political party that won seats in the founding elections in 1994 won seats twenty years later. The parties that existed in 1994 and also contested the 2014 elections, such as the Congress of Ukrainian Nationalists, were not competitive. Over the course of two decades, the parties that fared the best in the founding election<sup>29</sup>—the Communist Party of Ukraine, People’s Movement, Socialist Party, Peasant Party, Ukrainian Republican Party, and the Congress of Ukrainian Nationalists—ceased to exist, merged with other parties, or became noncompetitive.

Table 3.3 illustrates the volatility of Ukraine’s political party system. Several political parties emerged on the traditional left, associated with stronger state control over the economy: the Communist Party of Ukraine (CPU), Socialist Party of Ukraine (SPU), and Peasant Party.<sup>30</sup> The Communist Party consistently performed well in elections until it was banned due to the adoption of decommunization laws in 2015. The Peasant Party cooperated with the Socialist Party in 2002 and attempted to merge with it in 2011.<sup>31</sup> The SPU, and especially its leader Oleksandr Moroz, was an important political force from the mid-1990s until the mid-2000s. Moroz sided with the opposition to Kuchma’s regime in the Orange Revolution, but split from his collaboration with Viktor Yushchenko and Yuliia

Tymoshenko in 2006. After defecting from the Orange coalition, the SPU failed to pass the threshold in the 2007 elections and never regained its status as a competitive party. This family of political parties tended to perform best in the eastern and southern regions of Ukraine, especially in the traditionally industrialized Donbas and in Crimea. Russia's annexation of Crimea in 2014 and occupation of parts of Donbas further weakened these parties by disenfranchising their electorate (Herron, Tunberg, and Boyko 2015; Shevel 2015).

If parties of the left found their core supporters in Ukraine's east and south, so too did parties associated with the Kuchma and Yanukovych regimes. Kuchma eschewed formal affiliation with a political party. As a presidential candidate, he was not officially nominated by a party. He endorsed, but did not join, parties that helped serve his electoral and legislative interests. Many of these parties were dominated by business interests centered on the east and south, and promoted historic memory that was more sympathetic to the Soviet period and Russian language.

The 2002 For a United Ukraine Bloc consisted of several parties aligned with Kuchma and fronted by important political figures. Volodymyr Lytvyn, who had worked closely with Kuchma, led the Agrarian Party. Lytvyn would prove to be a flexible politician, also striking deals with members of the Orange coalition. Serhiy Tyhypko led Labor Ukraine, a party that counted the oligarch Viktor Pinchuk among its candidates. Anatolii Kinakh, who had served as prime minister before being fired by Kuchma and

	1994	1998	2002	2006	2007	2012	2014	2019
Rules								
System	SMD	MMM	MMM	PR	PR	MMM	MMM	MMM

PR Threshold	N/A	4%	4%	3%	3%	5%	5%	5%
SMD Formula	MR	Plurality Plurality N/A			N/A	Plurality Plurality Plurality		
Results								
CPU	86	123	65	21	27	32		
For United Ukraine			121					
Freedom						36		1
Greens		19						
Hromada		23						
Interregional Reform	15							
Bloc								
Lytvyn Bloc					20			
Opposition Bloc							29	6

Opposition Platform-								43
For Life								
Our Ukraine			112	81	72			
Party of Regions				186	175	183		
Peasant	18							
PDP		27						
People's Front							82	
People's Movement	25	44						
Poroshenko Bloc/							127	25
European Solidarity								
Radical Party							22	

PSP		17						
Self-Reliance							33	1
Servant of the People								254
SDPU(o)		18	27					
Socialist	14	34	22	33				
Tymoshenko Bloc/			22	129	156	99	19	26
Fatherland								
UDAR						40		
Voice								20
Independents	136	102	72	-	—	47	94	45
N <sub>s</sub> with Ind.	4.15	6.32	5.35	—	—	3.99	5.01	2.55
N <sub>s</sub> without Ind.	4.52	5.64	4.38	3.41	3.30	3.34	4.04	2.10

Total	338	445	450	450	450	445	422	423
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*Source:* Central Electoral Commission of Ukraine; Bojcun (1995); Birch and Wilson (1999).

*Note:* Parties listed on the table passed the PR threshold in at least one election. Parties in 1994 surpassed 4% of the seats. The “Total” listed on the table refers to the total number of deputies chosen on election day, or in the case of 1994 during the first or second rounds. The totals do not include subsequent by-elections. The Socialist Party ran in a bloc with the Peasant Party in 2002.

The Effective Number of Legislative Parties (N) is based on the seat allocation reported by the Central Electoral Commission for each election. In one version of the Effective Number of Parties calculations, independents are included as a single party; in another, they are excluded from the calculations. Affiliations often change within parliament, and independent candidates tend to align with a parliamentary faction or deputy group.

replaced with Viktor Yanukovych, led the Party of Industrialists and Entrepreneurs. Liudmyla Suprun led the People’s Democratic Party. The final major contributor to the For a United Ukraine Bloc was the Party of Regions, which would become Viktor Yanukovych’s vehicle for political rehabilitation prior to his victory in the 2010 presidential elections.

After Yanukovych’s defeat in the 2004 elections, the Party of Regions developed into a major player in Ukraine’s politics. As Kuzio (2015) observes, the Party of Regions combined several features to become a dominant party: an authoritarian political culture with clientelism and a “centrist” prioritization of stability that attracted voters, a penchant for deal-making that permitted it to absorb potential local competitors, and various economic and oligarchic interests that provided resources. Like the parties of the left, the Party of Regions drew its strongest support from Ukrainians in the east and south, the regions that have been most affected by Russian intervention.

The Party of Regions fell into disarray after the Euromaidan protests of 2013-2014 and Yanukovich's ouster, with its coalition of voters and deal-makers disintegrating. The future electoral potential of the Party of Regions' successors was significantly limited by the occupation of Donbas and Crimea. Ambitious politicians who were eager for re-election in 2014 distanced themselves from the label, running as independents or as part of a weakened successor organization called the Opposition Bloc. While the Opposition Bloc won seats in 2014, it was rendered relatively impotent in parliament. Two Party of Regions successors, the Opposition Bloc and Opposition Platform—For Life, ran for seats in the 2019 elections. Only the Opposition Platform—For Life passed the threshold to gain party-list seats.

While the story of the left and Eastern oligarchic parties is one of ascent and decline, the parties associated with Western Ukrainian orientations toward historic memory and language and a stronger affinity for Western European cooperation have experienced limited success, sudden victory, and then a descent into dysfunction. The earliest manifestations of Ukrainian national parties were the proto-parties of the democratic movement in the Soviet-era elections. Political parties emerged from these early elections, the most successful of which were the People's Movement, which earned forty-six seats in the party list and constituencies in the 1998 elections, and the National Front, which gained seven constituency seats. The National Front joined together the Congress of Ukrainian Nationalists, the Ukrainian Conservative Republican Party, and the Ukrainian Republican Party.

Many of these parties unified in the 2002 elections under the Our Ukraine Bloc, led by Viktor Yushchenko. Around this time, Yuliia Tymoshenko also founded her eponymous bloc, which offered a populist economic agenda and symbolic Ukrainian nationalism. She later rebranded under the party's formal name: Batkivshchyna (Fatherland). These political organizations also included politicians associated with more extreme visions of Ukrainian nationalism, but they were not dominant (Shekhovtsov 2011).



Extreme right-wing nationalist movements emerged as competitive political parties following the Orange Revolution. The Social-National Party of Ukraine, founded in 1991, renamed itself the Freedom Party in 2004 and developed into an important local, and subsequently national, force in the following decade. While the Freedom Party cast aside some of the symbols of its more radical inspiration, it retained its appeal to some right-wing extremists. The Euromaidan protests enhanced the national prominence of the extreme right, as its affiliates were among the most aggressive antiregime protesters. New organizations, such as Pravyi Sektor, asserted themselves, although they have not been successful electorally. The radical right adheres to positions common among these movements in Western Europe: anti-immigrant and anti-Semitic rhetoric, homophobia, and Euroskepticism. In the Ukrainian context, it adds demands for the status of the Ukrainian language and extreme anti-Russian rhetoric (Shekhovtsov 2011; Shekhovtsov and Umland 2014). While Ukraine's extreme right has not experienced widespread support—its parties fare poorly in elections—it has served as a source for propaganda efforts to brand Ukraine's government as fascist. Both versions of Ukrainian national parties, moderate and extreme, have recruited core supporters in Ukraine's western regions.

Ukraine's political center has been historically labeled the “swamp” (D'Anieri, Kravchuk, and Kuzio 1999) and encompasses a loose collection of parties that were not driven by ideology but rather by transactional positions. These types of parties were especially prominent in the 1990s, but the Orange Revolution and national party-list elections in 2006 and 2007 reduced their numbers. In the post-Euromaidan era, parties like the Bloc of Petro Poroshenko (renamed European Solidarity in 2019) that draw on oligarchic resources and European-oriented rhetoric have filled these centrist positions in the Ukrainian party system.

The newest major political party is associated with President Zelenskyy, who formed it with colleagues in 2018. The Servant of the People Party, named after the television show where Zelenskyy portrays a populist and unexpected presidential winner, has advocated anticorruption policies and a pro-European stance. The party performed exceptionally well in the 2019 parliamentary elections, garnering the largest victory for any single

party in Ukraine's history. As a young party, however, it lacks the organizational infrastructure that most parties rely on to persist over time. Also, its candidates come from diverse backgrounds and its true political orientation was unclear at the time this book was completed.

While Ukraine's party system has moved toward institutionalization over its twenty-five years of independence, it has not fully stabilized. Most parties remain personalistic and nonprogrammatic, with brands changing often. These conditions render vertical accountability challenging: how can citizens exert oversight when they cannot be sure from election to election who the parties are or what policies they support?

### **Do Incumbents Lose?**

The chapter has thus far established that Ukraine has failed to consistently conduct free and fair elections across its entire territory, although many elections—including recent contests—have credibly approached international standards. Further, Ukrainian politicians have not provided citizens with consistent rules of the game or targets. The final section of this chapter takes up another crucial issue in vertical accountability: can incumbent politicians lose?

While citizens may vote to retain elected officials because they are satisfied with their representatives' performance, incumbents should not always win. From election to election, and from constituency to constituency, it is difficult to imagine that voters would not from time to time demand change. To understand if incumbents can lose, I address several questions below: Who runs and who withdraws from competition? Who retains the same party label and who changes labels, and how does this decision affect performance?

Before moving to the analysis, it is important to provide some comparative context for incumbency performance. At one end of the spectrum, incumbency provides a strong advantage and is associated with high reelection rates, rising to 95% in the United States (Friedman and Holden 2009). On the other end of the spectrum, incumbency has been shown to disadvantage candidates (see Uppal 2009 on India). While one might anticipate that incumbents can benefit from their access to state resources

and the ability to “deliver the goods” to constituents, or to use state resources to manipulate election outcomes to their benefit, one would also expect that the failure to provide for a district could result in defeat at the polls. This type of outcome is precisely what we would anticipate if elections are vertical accountability tools: incumbency does not shield poor performers from election losses and incumbent turnover should occur.

Ukrainian incumbents are not as safe as their counterparts in the United States, nor are they as vulnerable as those in India. Table 3.4 illustrates the fate of incumbents over time. Several notable features stand out. First, many incumbents self-select out of the process due to withdrawal from politics, failure to secure nomination by a party, or some other fate (e.g., a change in professional goals, death, etc.). Of the potential incumbent participants,

**Table 3.4. Incumbent Winners and Losers**

Election	Incumbent Winners	Incumbent Losers	Incumbent Non-Participants
<b>1998</b>			
Total	118	142	78
PR	24	23	
SSD	94	119	
Same Party	6		
<b>2002</b>			
Total	174	219	52
PR	111	118	
SSD	63	101	
Same Party	39		
<b>2006</b>			
Total	160	221	64
Same Party	69		
<b>2007</b>			
Total	277	133	39
Same Party	260		
<b>2012</b>			
Total	161	166	122
PR	97	89	
SSD	64	77	
Same Party	119		
<b>2014</b>			
Total	143	164	138
PR	59	89	
SSD	84	75	
Same Party	16		

*Source:* Data from the Central Electoral Commission of Ukraine.

23% opted not to contest seats in 1998, 12% in 2002, 14% in 2006, 9% in 2007, 27% in 2012, and 31% in 2014. Setting aside idiosyncratic personal reasons for withdrawing from competition, what might explain variation in incumbent withdrawal over time?

Electoral-system reform may partially explain some of the cases. The change from a single-seat district system in 1994 to a mixed-member system in 1998 created potential barriers for incumbents. The number of

constituency seats was cut in half, requiring candidates to find new district homes in consolidated territories. Many incumbents, faced with the prospect of competing against one or more additional incumbents, may have opted out. In addition, independent candidates who ran in 1994 and sought nominations on the party list ballot would need to join a party; it is possible that some incumbents could not find hospitable homes on party lists and opted out. A similar problem could have occurred in 2012 when the electoral-system change was reversed—from nationwide PR to a mixed-member system. Incumbents who could not secure safe list positions and had not developed a local network to be competitive in a district may have opted out. In short, institutional change could have prompted incumbent withdrawal.

The changing political environment could also have prompted withdrawal, especially in 2014. Incumbents associated with the ousted Yanukovich regime may have strategically withdrawn. Indeed, 92 candidates elected in 2012 as Party of Regions affiliates did not participate in 2014; this constitutes half of the potential candidates among Regions incumbents. Most of the Party of Regions candidates from 2012 who contested in 2014 ran as independents (79). Others ran as affiliates of Regions offshoots, the Opposition Bloc (25) or Strong Ukraine (18). Two candidates affiliated with the Bloc of Petro Poroshenko and one with the Liberal Party. In short, changes to the political environment, especially after Euromaidan, also affected incumbent participation decisions.

While these forms of incumbent rejection are not the focus of the chapter, they could reflect a type of accountability. That is, if parties were reluctant to nominate candidates because they were not viewed as sufficiently loyal, or if local power brokers supported an alternate candidate for constituency races because that candidate was perceived as a more responsive representative, strategic withdrawal may reflect accountability in action. However, the more direct manifestation of accountability is through electoral loss.

A prime example of vertical accountability in elections is when an incumbent party or candidate runs for a seat but is defeated by a challenger. In almost every election, around half of incumbents who were on the

ballot failed to secure re-election: 55% in 1998, 56% in 2002, 58% in 2006, 32% in 2007, 51% in 2012, and 53% in 2014. The main anomaly is the snap elections of 2007, when only one party failed to regain seats in parliament; the Socialist Party did not pass the threshold and was replaced by the Volody-myir Lytvyn Bloc. Under mixed-member electoral systems, incumbents from both PR lists and SSD races fail, although a higher proportion of SSD incumbents typically fail (49% PR vs. 56% SSD in 1998; 52% PR vs. 62% SSD in 2002; 48% PR vs. 55% in 2012). The only exception is 2014, when 60% of list incumbents failed versus 47% of constituency incumbents. This outcome could be due to the reduction in the number of districts due to the occupation of Crimea and Donbas, as well as shifts in the party system.

Presidential incumbents have lost re-election on three occasions in Ukraine's post-Soviet history and have secured re-election only once. Leonid Kravchuk, elected at the end of the Soviet period, lost to his challenger Leonid Kuchma in 1994. The election was relatively close, with Kuchma securing 52% of the vote and relying on voters in the east. Kuchma was reelected in 1999 by altering his regional strategy, handily defeating Petro Symonenko by winning the western part of the country along with some support in the east. Viktor Yushchenko, the winner of the contested 2004 elections, was soundly defeated when he failed to make the second round in 2010. In the most recent presidential election in 2019, incumbent President Petro Poroshenko qualified for the second round, but experienced the most lopsided loss in Ukrainian election history when he was defeated by Volody-myir Zelenskyy.

Zelenskyy, who campaigned not only against Poroshenko but arguably against the entrenched political system, won support throughout the country. Unlike the regional strategy pursued by Kuchma in earlier elections, Zelenskyy's rhetoric resonated nationwide. The map of Poroshenko's performance in 2014 and 2019 illustrates how he was rejected in favor of Zelenskyy in most of the country. The black points on the map show the polling places where Poroshenko won more votes than all other rivals in 2014, but where he lost to Zelenskyy in 2019. The medium gray points show other polling places that recorded votes in both elections. In the western part of the country, these points are generally polling places that

Poroshenko won in both elections. In the eastern part of the country, they tend to be polling

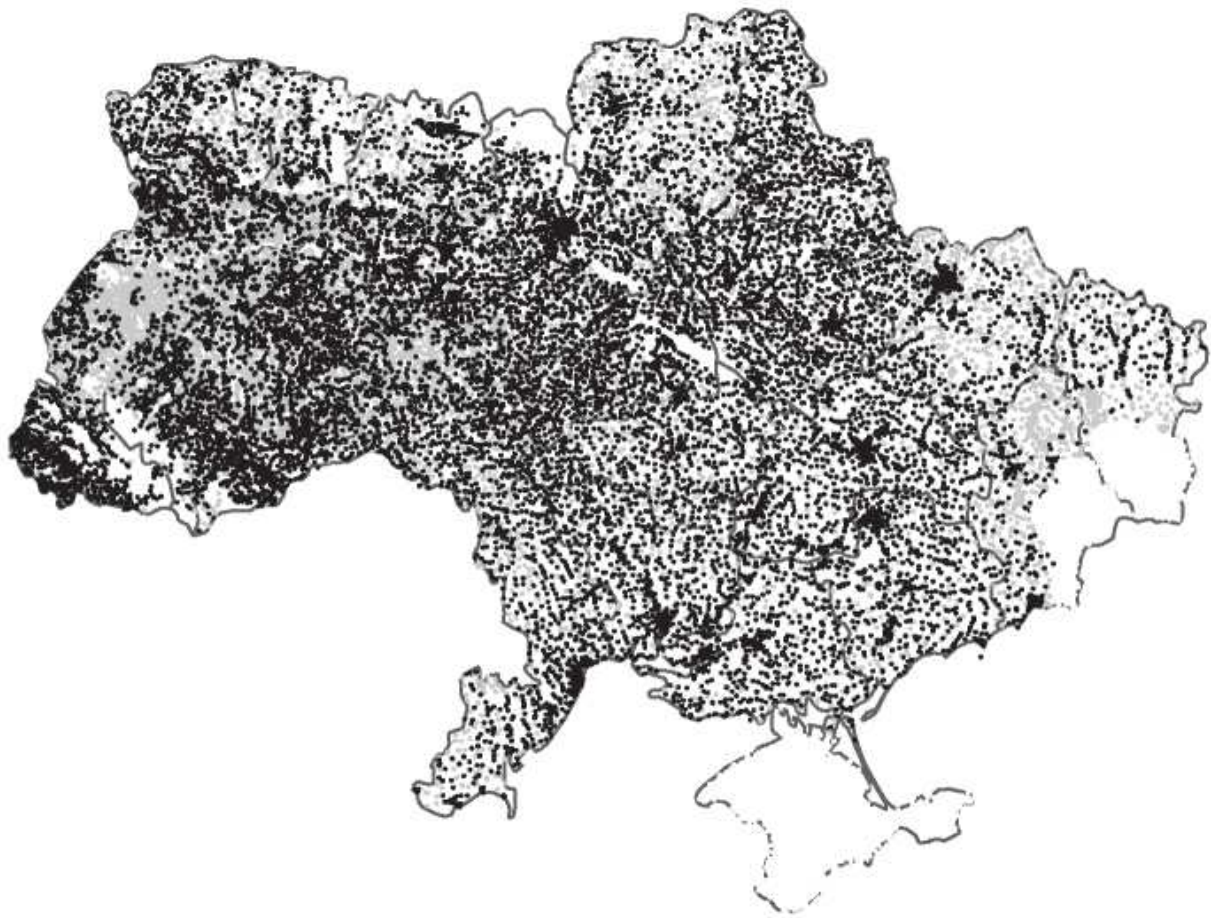


Fig. 3.3. Map of Poroshenko Performance in 2014 and 2019

places that Poroshenko lost in both elections. The lightest points in Crimea and Donbas designate polling places that did not participate in one or both of the elections.

The map underscores how thoroughly the Ukrainian electorate repudiated Poroshenko. While Poroshenko retained some support in the west, the preference of Ukrainian voters for Zelenskyy was not a regionally focused phenomenon; Poroshenko lost support all over the country. This is a definitive illustration of vertical accountability through the electoral process. While individual voters' reasons for choosing Zelenskyy over Poroshenko vary, an overwhelming majority of citizens determined that

they preferred a new president to a continuation of the incumbent's administration.

Survey data suggest that Ukrainian citizens abandoned Poroshenko to hold him—and the system—accountable. An IRI postelection survey noted that 61% of respondents indicated that the candidate's ability to provide change was a more important factor in their vote choice than the ability to provide stability. In addition, respondents blamed Poroshenko for the system's inadequacies, identifying his greatest deficiencies as corruption, nepotism, and failure to end the Donbas war. Although Poroshenko inherited many of these problems, Ukrainians expected him to better address them.<sup>32</sup> In sum, Ukrainian citizens indicated that they anticipated improvements in the war, corruption, and the economy. When Poroshenko failed to deliver, they selected an alternative who they believed would be more likely to produce change.

Vertical accountability requires turnover in elected officials; some incumbent politicians should win elections and other incumbent politicians should lose elections. The level of turnover that we **should** observe, however, is more difficult to assess. Despite the lack of a clear benchmark, Ukraine's elections produce turnover, with around half of incumbents failing to secure re-election in parliamentary elections. Incumbents have also failed to earn re-election in presidential races, with the 2019 presidential election serving as a clear example of vertical accountability in action.

## Conclusion

This chapter addressed the question of vertical accountability in Ukraine, focusing on one of its manifestations: holding elected officials accountable through elections. This form of vertical accountability is arguably most important because without functioning elections, a society cannot be deemed democratic. The assessment of accountability emphasized three questions: Do elections accurately translate citizens' preferences into outcomes? Do electoral and party systems present a stable environment for citizens to assess and judge politicians' performance? Do incumbents lose seats, demonstrating that officials can be removed from office? Ukraine's elections present mixed results.



While none of Ukraine's elections have met international standards fully, election quality has improved. The 2004 presidential elections seem to have been an inflection point, with an upward trajectory in the fifteen years following. The Orange Revolution's mass mobilization in response to election fraud effectively removed widespread, systematic, and decisive manipulation as an effective regime tool, at least at the national level. Efforts to manipulate both voters and their votes have occurred in the last fifteen years, but they tend to be more limited in scope and regionally concentrated. Although the 2012 parliamentary elections were a step backward, subsequent national elections have been more credible.<sup>33</sup> The public's confidence in elections has changed along with these developments. Ukrainians have long been cynical about the legitimacy of electoral processes, but more recent surveys suggest that they are expressing increased confidence in election integrity and political efficacy.

The chapter also notes that incumbents are not fully protected from defeat. In most parliamentary elections, around half of incumbents fail in their re-election bids. On three notable occasions presidents have also failed in re-election efforts, with the 2019 presidential election serving as a direct example of vertical accountability.

While these are positive signs, the instability of election rules and political parties raises crucial questions about accountability: Do incumbents lose because citizens assess their performance as inadequate, or do they lose because of the changing rules of the game and ever-changing party labels? In other words, we see many of the "right" outcomes for functioning vertical accountability, such as incumbent turnover, but we cannot be sure they happen for the "right" reasons—citizens rejecting underperforming parties and candidates.

The uncertainty in the implementation of vertical accountability is also related to the other main theme of this book: normalizing corrupt practices. Ukraine's tradition of conducting problematic elections—in whole or part—has generated an expectation of corruption. This expectation, in turn, undermines citizen confidence in elections as a weapon to wield against political elites who do not represent their interests. Ever-changing election laws and political parties undermine vertical

accountability because citizens cannot know whom they should hold accountable and how this can be accomplished. The moving targets created by electoral and party system instability serve established politicians well, but not citizens.

If citizens face a complex environment in which to hold officials accountable, how well do officials hold each other accountable? The next chapter addresses the issue of horizontal accountability, emphasizing tools that Ukraine's parliament ostensibly deploys to oversee government behavior.

## 4 Horizontal Accountability

The previous chapter emphasized vertical accountability, particularly as it is manifested in the democratic election process. Lines of accountability flow in other directions as well, as I noted in the introductory chapter of the book. Institutions—and the actors within those institutions—maintain checks over each other by challenging, probing, or questioning the actions taken by hierarchically lateral organizations. Horizontal accountability is important because it serves as an institutional check on the use, or abuse, of power between elections.

While democratic governments tend to institutionalize several forms of horizontal accountability, this chapter emphasizes two mechanisms in Ukraine. The first is a long-standing practice that is widespread in legislatures around the world: formally issuing questions to other institutional actors. In Ukraine, these formal questions are called “deputy requests” and are deployed by legislators to serve several purposes. As an accountability tool, requests are relatively weak; while actors are obligated to reply, legislators cannot force the targets to take action. Moreover, the answers that legislators receive may not be satisfactory. The only recourse for a legislator in this case is to reissue the question.

In this chapter, I evaluate the use of deputy requests in two critical time periods: the 4th and 8th Convocations of the Verkhovna Rada. The 4th Convocation covers the time period between the 2002 and 2006 parliamentary elections. Because executive power changed hands while legislative power did not, this time period provides especially valuable insights on the use of deputy requests as horizontal accountability tools. The 8th Convocation began after the Euromaidan revolution and snap parliamentary elections. It is important because, like the 4th Convocation, it also features a crucial time period in which executive power changed hands. I assess who issues requests and how responsive institutions are to legislators.

The second example of horizontal accountability is relatively new and is less common in democratic societies. In the wake of Euromaidan,

Ukraine established anticorruption institutions designed to investigate corrupt behavior by officials. The National Anti-Corruption Bureau of Ukraine (NABU) was formed in 2014 as an independent state agency, and its work has resulted in thirty-one convictions.<sup>1</sup> NABU has also experienced challenges that speak to the difficulties of confronting corruption in Ukraine. Another oversight actor, the Anti-Corruption Court, was codified in law in June 2018.

The chapter proceeds in three sections. In the first section, I outline the conditions for and impediments to horizontal accountability, and Ukraine's post-Soviet history with horizontal accountability. In the second section, I discuss deputy requests and present data on their use. In the third section, I describe the development and activities of the National Anti-Corruption Bureau. I conclude the chapter by reflecting on the necessity of horizontal accountability tools, but also their inherent weaknesses.

### **Horizontal Accountability**

Horizontal accountability is often associated with questions rather than demands. Unlike vertical accountability, in which actors have authority over one another, the actors in horizontal accountability relationships are often parallel in the hierarchy or have independent sources of legitimacy. This relative parity in power does not preclude one actor from being able to reward or punish another, but it renders that interaction more challenging. Because horizontal accountability is often an interaction of equals or nearequals, it is more likely to be associated with the "opportunity to ask uncomfortable questions" and the "obligation to respond to nasty questions" (Schedler 1999, 14).

Under what circumstances might these questions arise? They might arise when members of a legislature strive to assess if the executive branch is properly executing laws. They might arise when formal oversight bodies within government agencies investigate bureaucratic compliance with rules, or allegations of waste, fraud, or abuse of power. They might arise from a legislative or judicial process to determine if the executive is overstepping the bounds of its formal power, or if agencies are serving as appropriate stewards of taxpayer dollars (James 2002). The mechanisms by which officials might check each other's behavior include judicial

review, public hearings, question time, and legislative questions and interpellations (Salmond 2007; Yamamoto 2007). Using these types of institutional mechanisms, government officials may investigate and challenge dishonesty, waste, arbitrary or biased decisions, and improper implementation of the law (Rockman 1984; James 2002). While officials may mete out rewards or punishments through votes of no confidence, censure, or impeachment, the enforcement tools at their disposal are not as simple or direct as voting an elected representative out of office or firing an ineffective cabinet member.

Oversight efforts using horizontal accountability tools may seem to be a standard practice in good governance, but challenges leveled by one political actor or organization against another may be perceived as highly partisan (Rockman 1984) and instigate interbranch conflict, especially between the executive branch and the legislature.<sup>2</sup> This conflict may undermine interbranch relationships.<sup>3</sup> For the political opposition, probing the executive for evidence of improper behavior could provide fodder for campaigns or leverage in the governance process. The politicization of oversight has been researched most extensively in the United States and Western Europe, with scant attention directed to its development in societies undergoing democratic transitions.<sup>4</sup>

### ***Horizontal Accountability in Ukraine***

Questions of horizontal accountability have been at the center of Ukraine's politics since its inception as an independent country. As I noted in chapter 2, Ukraine was the last post-Soviet state to codify a new constitution after the dissolution of the Soviet Union. Central to horizontal accountability—and constitutional provisions—is the relationship between the executive and legislative branches. The 1996 constitution formally established a semipresidential system,<sup>5</sup> conferring significant powers to the president and more limited powers to the legislative branch. The prime minister and cabinet, in this initial arrangement, were subordinate to the president; they had a relationship characterized by ***vertical accountability*** because the president could appoint and dismiss the prime minister and cabinet. A compromise that permitted the peaceful resolution of the Orange Revolution produced constitutional change that strengthened the legislature;

this institutional reform fundamentally changed the relationship into one of **horizontal accountability**. The president had a mandate independent from parliament, and the members of parliament would select the prime minister and government. While both branches could exert authority over each other in certain matters, the legislature became more of a co-equal partner with the president.

The relationship between the executive and legislative branches changed once again in 2010. After Viktor Yanukovich took office, he re-established the more powerful presidency that had been in place when the constitution was enacted. Presidential powers again reverted to the Orange Revolution compromise after Yanukovich was ousted in 2014. Under the current version of the constitution, the president does not nominate the prime minister as he had in the original constitution. Further, members of the cabinet may be dismissed by the prime minister (not the president), but the president may dissolve parliament if a parliamentary majority is not maintained.

The changing relationship between the executive and legislative branches complicates discussions of accountability. At times, members of government—notably the prime minister and cabinet—were in a vertical accountability relationship with the president when they could be appointed or fired directly. When the constitution operates under limited presidential authority, as is currently the case, the relationship is better characterized as horizontal.<sup>6</sup>

Long before the constitution was finalized, Ukraine's parliament began developing capacity in oversight and accountability. As early as 1990, parliamentary commissions emerged to conduct oversight, but they were impeded by a lack of deputy engagement and a lack of political will to challenge the standing government. The evolution of institutional rules, including internal rules for governing parliament's activities (i.e., the **Regla-ment**),<sup>7</sup> laws about budgeting and committees, and the constitution itself, eventually formalized accountability tools in the legislative process. While members of parliament and committees increasingly attended to the oversight role, it became politicized and dangerous. Some deputies involved in oversight died in "unclear circumstances" (Whitmore 2004, 174).

Political opposition to Leonid Kuchma's regime was active in the 1990s, but it was subdued by the president's ability to use the state's repressive capacities to limit dissent. President Kuchma was not able to fully dictate how parliament acted, however, and it was dominated by leftist factions that did not always comply with his preferences. Kuchma's frustrations prompted him to initiate a referendum on constitutional changes in 2000 that would have weakened the legislature. All four questions in the April 16 referendum passed, but they were never enacted.<sup>8</sup> Members of parliament argued that the referendum was not constitutional, and the scandal emerging from the revelations of Kuchma's complicity in the murder of journalist Heorhii Gongadze weakened Kuchma's hand. The subsequent "Ukraine without Kuchma" protest movement also enhanced regime opponents' electoral prospects, and they performed better than initially expected in the 2002 parliamentary elections.

The electoral success of opposition parties in 2002 further strained the already contentious relationship between the executive and legislature. Conflict reached its zenith in the 4th Convocation of the Rada that met from May 2002 until April 2006. The Orange Revolution in 2004 permitted an opposition candidate to ascend to the presidency, but the composition of parliament—still dominated by allies of the ousted regime—did not change. While supporters of Kuchma and Yanukovych found themselves in the new opposition, they also wielded power by holding on to the majority of assembly seats. The implications of the "Orange" forces' inability to match their capture of executive offices with a legislative majority were manifested in several ways. For example, new officials could not be appointed in some positions, such as the chief of the State Property Fund, where pro-Orange factions could not muster the required majority of 226 votes.

While the system was still dominated by the president until reforms were enacted in the Orange Revolution era, the legislature developed into a body that exerted its independence from the executive branch. Researchers have noted that formal institutional mechanisms, such as committees, increasingly asserted their authority in the legislative process (Khmelko, Wise, and Brown 2010), and that members of parliament viewed them as more than partisan tools (Khmelko and Beers 2011). While the

1990s and early 2000s were not a fully democratic period in Ukraine, the legislature developed its ability to check authority.

Parliament continued to serve as a venue for formal and informal oversight through the 2000s and into the 2010s, with the use of formal tools punctuated by periods of informal and aggressive efforts to challenge state authority. Notably, after President Yanukovych acceded to the presidency, the opposition would delay or suspend parliamentary activities by occupying the dais or engaging in disruptive behaviors. After the Euromaidan protests ousted Yanukovych, new accountability institutions were put in place, including the National Anti-Corruption Bureau, the Anti-Corruption Court, and the requirement for public officials to declare assets (e-declarations). The next section focuses on one specific form of oversight during two periods in Ukraine's political development: deputy requests.

## **Deputy Requests**

Legislative questions, called deputy requests in Ukraine, are extensively used worldwide to check behavior. Members of parliament in Ukraine have access to three primary mechanisms to exert oversight: requests, hearings, and monitoring Cabinet of Ministers activities. Deputy requests (ЗануТ in Ukrainian/Занпоч in Russian) are perhaps the most widely used tool to check the behavior of other institutions and are noted in the constitution, the Law on the Status of People's Deputies of Ukraine, and parliamentary regulations. Ukraine's constitution indicates that deputies may issue requests to the Cabinet of Ministers, leaders of other state institutions and local governments, units within parliament, and also to the chief operating officers of enterprises and other organizations that operate in Ukraine (Article 86). Deputy requests are formally issued during plenary sessions of parliament; the targets are expected to respond to the request in a reasonable time frame. The only exceptions to this general rule are requests directed to the president; these requests must receive a favorable parliamentary vote to be placed in the record.

Scholars have studied the use of legislative questions in many contexts, investigating how they function as a tool to control the executive (DeWinter and Dumont 2006; Genckaya and Genckaya 2007; Arter 2008; Whitmore



2010; Proksch and Slapin 2011), as a gauge of legislator activity (Shevchenko and Golosov 2001), as a constituency service outcome (Soroka, Penner, and Blidook 2009), as a signal of important issues (Chaney 2008; Green-Pedersen 2010), and as a proxy to measure partisan response to media attention (Walgrave, Soroka, and Nuytemans 2007; Vliegenhart and Walgrave 2010).<sup>9</sup> I address several of these issues in this section.

Because oversight is connected to political disputes (Rockman 1984), I anticipate a strong relationship among partisanship, control of political institutions, and the use of requests. Members of parliament whose parties do not control the executive (president and/or prime minister) should be more likely to use requests as a method to probe the behavior of the parties in power, to extract information, and to challenge the majority. The partisan affiliations of the deputies making requests and the target organizations may also influence the responsiveness of the institution to which the questions have been directed. Just as the opposition has incentives to ask questions of the ruling party, so too does the ruling party have incentives to delay and potentially obfuscate its replies. The timing and quality of responses may also depend on the complexity and volume of questions, as well as the capability of institutional actors to answer the questions quickly and thoroughly.

The Verkhovna Rada makes available information about deputy requests, including the identity of the deputy fling the request, the institution to which the request was directed, and a summary of the content. While deputy requests are, at their core, a tool for horizontal accountability, they can be used to achieve multiple ends. Most notably, deputy requests are a public mechanism to demonstrate that representatives are advocating for their constituents and fulfilling their duties as public servants. The content of deputy requests often suggests which function is the primary aim.

In some cases, deputy requests clearly identify an issue related to oversight. A deputy might make a request indicating that a government decision or response is unsatisfactory, or a deputy might issue a challenge to government actions; these are requests clearly designed to advance

horizontal accountability. For example, in the 4th Convocation, Deputy Mykola Katerenchuk filed a request about ostensibly inappropriate efforts by the prosecutor to regulate deputy activities. This request is directly related to horizontal accountability: a member of parliament is challenging another state actor in the executive branch about efforts to influence the behavior of equally powerful actors.

In other cases, deputy requests may serve more than one outcome. Deputy requests also may be used to fulfill constituent service needs, rather than exclusively advancing horizontal accountability. In these instances, the request may indicate that some action is needed on behalf of an individual or group of citizens who are constituents of the deputy making the request. These requests most evidently reflect representation when they are submitted by legislators in geographically defined districts and the subject of the request is located in the deputy's constituency. For example, in the 4th Convocation, Deputy Serhii Osyka filed a request concerning additional budgetary subsidies for a village located in the district that he represented in parliament. While this request was related to oversight, it also was designed to signal voters that the deputy was serving their needs in parliament.

Differentiating requests focusing on horizontal accountability from those focused on representation can be challenging in some cases. Identifying and acting on the needs of constituents, while a crucial activity of members of parliament, does not exclude horizontal accountability as a motivating component of the request. As I noted above, a deputy could make a request designed to benefit constituents that simultaneously checks the behavior of other government actors. To provide another example, Deputy Anatolii Moroz filed a request to follow up on an unsatisfactory response to a previous request (an oversight function). The request focused on a purportedly unconstitutional denial of judicial examination involving a resident in the deputy's district (a representative function). While the initial request was focused on representation, the follow-up request also addressed oversight matters. In sum, while deputy requests may serve multiple objectives for members of parliament, horizontal accountability is generally present.

## ***Analysis of Deputy Requests***

How have members of Ukraine's parliament engaged in oversight, and how has horizontal accountability changed over time? To address these questions, I assess deputy requests issued in two critical time periods: May 2002-April 2006 and December 2014-March 2017. The first time period corresponds to the 4th Rada Convocation, which took place after the 2002 parliamentary elections and continued until the 2006 elections; it includes 18,751 deputy requests. This time frame includes a critical change in government power, from the semi-authoritarian regime led by Leonid Kuchma through the Orange Revolution where fraudulent elections were overturned, to the beginning of rule by the former opposition. This period is especially valuable because requests were a method by which the weak opposition elected in 2002 could check government behavior. After the change in executive power, the former ruling party could also use this tool to check the newly installed government. Because the composition of parliament did not change, we can see if executive branch turnover prompted different oversight behaviors (Boyko and Herron 2014).

The second critical time period covers slightly more than the first two years of the 8th Rada Convocation following the snap 2014 parliamentary elections; it includes 9,958 deputy requests. It followed another ouster of a chief executive and substantial change to the party system. In this case, the data on deputy requests encompass the post-Euromaidan period in which the former ruling coalition was in disarray, but members of parliament who had been affiliated with it nevertheless won seats in parliament.

I ask several questions to understand how deputy requests are used to fulfill oversight functions: How frequently are requests issued, and how do they differ among party groups? How quickly do government actors respond to requests? How satisfactory are government answers to deputy requests?

## **Frequency of Deputy Requests**

Who directs questions to the sitting government? The most straightforward hypothesis is that members of parliament affiliated with the opposition

are likely to issue more requests than those associated with the government. To what extent do the data back up this hypothesis?

Figure 4.1 shows the mean number of requests and 95% confidence intervals issued by members of parliament, grouped by their political orientation. The labels reflect the colors associated with the election campaigns. The legislators labeled “Orange” in the figure are associated with the political opposition supporting the Orange Revolution’s goals. The legislators labeled “Blue” are associated with the pro-Kuchma/Yanukovych group.<sup>10</sup> I list separately the Communist Party and other legislators whose orientation cannot be determined.

The left panel in figure 4.1 shows that legislators affiliated with the Orange group and Communist Party issued, on average, around three times as many requests as those in the progovernment Blue group prior to the Orange Revolution. This observation matches general expectations. Opposition access to oversight was relatively limited at this time; deputy requests were a tool that the government could not stymie.

The right panel on figure 4.1 illustrates post-Orange Revolution behavior. The average number of requests for the Orange-affiliated deputies drops, while it rises for Blue-affiliated deputies. The change in executive power reduced the need for Orange-affiliated deputies to check behavior and enhanced the need for Blue-affiliated deputies to check behavior. The behavior of Communist deputies largely remained the same; its members challenged both administrations.

Why did the frequency of requests from Orange-affiliated deputies not drop more once they had gained the presidency? The figure shows that the average behavior of Orange- and Blue-affiliated deputies is essentially indistinguishable following the change in power. Shortly after the Orange

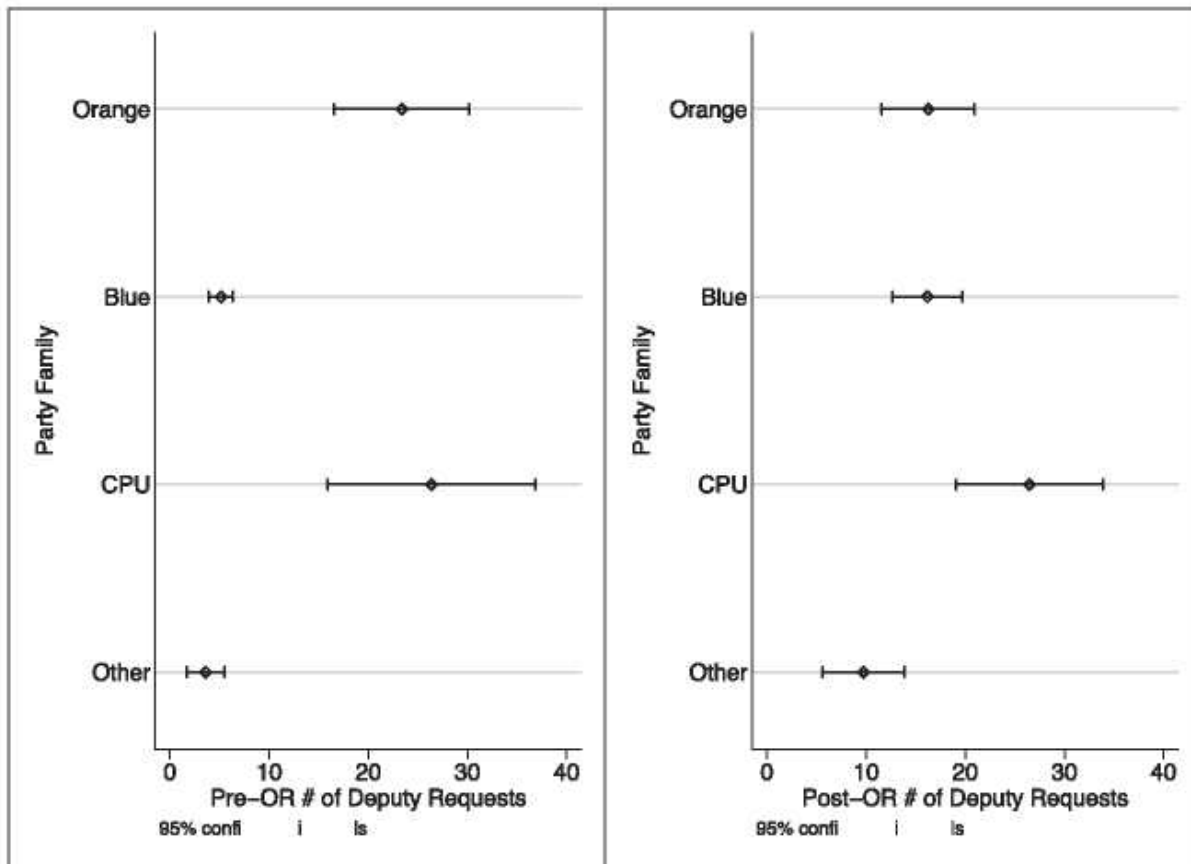


Fig. 4.1. Deputy Requests Before and After the Orange Revolution

team captured the executive branch, it engaged in infighting, which broke the coalition and prompted early elections in 2007. Internal dissent among the Orange deputies explains, at least in part, the failure of request frequency to decline more substantially. Constitutional change that weakened the presidency also changed the calculus for issuing deputy requests. In general, the frequency of deputy requests and pre- and post-Orange Revolution activities match expectations.

Post-Euromaidan Ukraine shows a different pattern of behavior, as illustrated in figure 4.2. The parliamentary parties are labeled differently than during the Orange Revolution era, with “major” and “minor” government parties, the opposition, and independents. Deputies affiliated with major government parties are those aligned with the Bloc of Petro Poroshenko or National Front, the two leading parties after the 2014 elections. Minor government parties include deputies associated with

Fatherland, Self-Reliance, and the Radical Party. The opposition includes the Opposition Bloc, Strong Ukraine, and UKROP.

The figure shows that government- and opposition-affiliated deputies differ little from one another in terms of the average number of requests

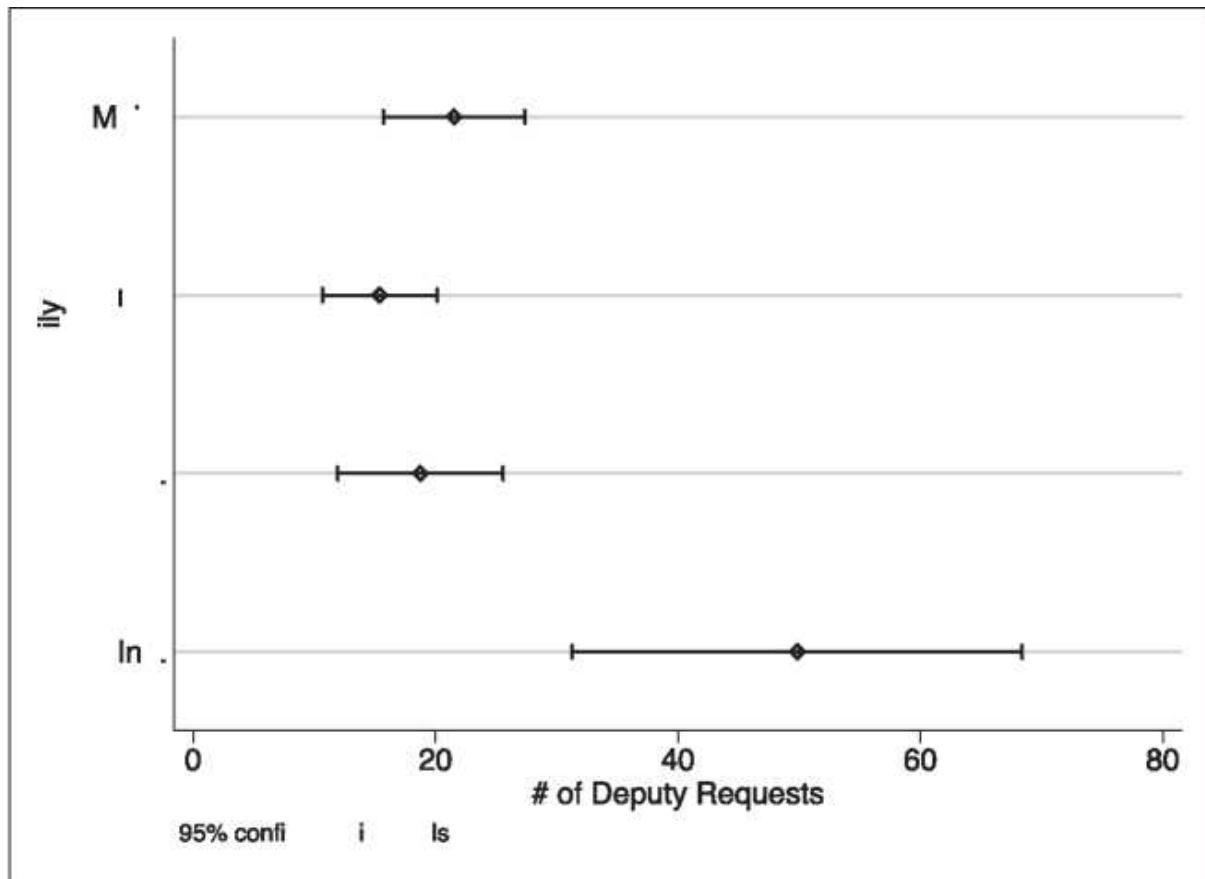


Fig. 4.2. Deputy Requests in the 8th Rada Convocation

issued. At the same time, the frequency of requests is higher in the post-Euromaidan era; the mean number of requests hovers at around twenty for affiliated groups and around fifty for independents. During the Orange Revolution era, nonaffiliated deputies and the Blue group (pre-Orange Revolution) produced around ten requests per deputy. The activity level of independent deputies is especially high. One possible explanation for this behavior is that former members of the Party of Regions, unable to contest under that party label because it did not participate in the 2014 elections, self-identified as independents. However, comparison of means

tests shows no statistical difference in behavior between self-identified independents who were former Party of Regions-affiliated deputies and those who were not. Thus, the post-Euromaidan era looks similar to the post-Orange Revolution era for deputies affiliated with progovernment and opposition factions. The main difference is unaffiliated deputies who, on average, asked more questions than affiliated deputies. Indeed, three of the top five deputies (in terms of the number of requests issued) were independents.

Of the twenty-three deputies who issued more than 100 requests in the data, all but three were elected in single-seat districts. They were distributed across parties representing major government parties (seven from the Bloc of Petro Poroshenko and two from the National Front), minor government parties (one each from the Radical Party and Self-Reliance), and others from outside the governing group (five from Freedom, one from the Opposition Bloc, and six independents). This distribution of requests among the most prolific users suggests that the tool is not fully coordinated by party leaderships; if party organizations developed a strategy to use deputy requests regularly, we might expect deputies selected via the party list to be more prolific. This observation also speaks to the tool's value as a mechanism for both accountability and constituency service. Deputies in singleseat districts can use requests to demonstrate their attentiveness to constituent concerns.

In sum, if one looks at the frequency of deputies' requests, they seem to have value as a horizontal accountability tool. Members of parliament issue thousands of requests during the parliamentary sessions; it is hard to envision deputies wasting their time with these tools if they had no utility. Deputies who have access to power through affiliations used requests less frequently in the pre-Orange Revolution period, but were not different from others in the post-Orange Revolution or post-Euromaidan periods. Instead, unaffiliated deputies emerged as a group using large numbers of requests in the post-Euromaidan era.

## **Institutional Targets**

Deputies make requests to a wide range of government institutions and private-sector actors. Table 4.1 summarizes the targets of requests in the

8th Convocation. Overall, 1,047 unique institutional actors received requests from members of parliament.

Among the major institutional actors in the executive, legislative, and judicial branches, the cabinet and ministries are targeted far more frequently than others. As I noted above, the president is less likely to be targeted with a request due to the additional parliamentary vote required; only twenty-eight requests were directed to President Poroshenko in the data set. While the judiciary and prosecutor also received a large number of requests, they fell far short of executive-branch agencies. State and private enterprises received a modest number of requests. The “other” category includes a wide range of actors, from the security services to local agencies.

Because the cabinet and its ministries are charged with the task of implementing laws passed by the national parliament, it is not surprising that members of parliament would direct oversight attention toward these actors and the agencies they manage.

### **Time to Response and Satisfaction**

To best understand how well deputy requests fulfill their functions as horizontal accountability tools, it would be optimal to know how long it takes the deputy to receive a response and if that response is satisfactory. The Verkhovna Rada publishes data on the date that deputy requests are submitted and the date on which the response is issued, so the first question can be answered reasonably well. Answering the second question is not as straightforward. We cannot know with certainty if deputies are satisfied. However, some requests are reissued to different institutional actors and receive a second, third, or even higher number of responses. While the reason for reissuing a request is opaque, one can infer that the initial responses lack something that the deputy seeks from another actor.

Figure 4.3 shows the mean number of days between the initial request and a response by authorities, along with 95% confidence intervals. Prior to the Orange Revolution, responses took on average between three and four weeks for all political forces. However, the response times were slightly longer for requests issued by the Orange forces (political opposition) than for the progovernment Blue group. After the Orange



Revolution, the time to reply increased, but response times were not substantially differentiated by political orientation. One probable reason for the increased response time is that the number of deputy requests increased. Prior to the Orange Revolution, the proregime Blue forces issued relatively few requests; the number of requests increased when they lost presidential power. However, Orange-

**Table 4.1. Institutional Targets, 8th Convocation**

President	Cabinet	Ministry	Rada	Judicial & Prosecutor	State Enterprise	Private Enterprise	Other
<i>Government Majority</i>							
12	883	1,342	225	529	88	28	1,871
<i>Government Minority</i>							
6	379	350	59	159	24	7	656
<i>Opposition</i>							
3	530	264	38	132	4	1	707
<i>Independent</i>							
7	583	700	129	357	50	8	1,206

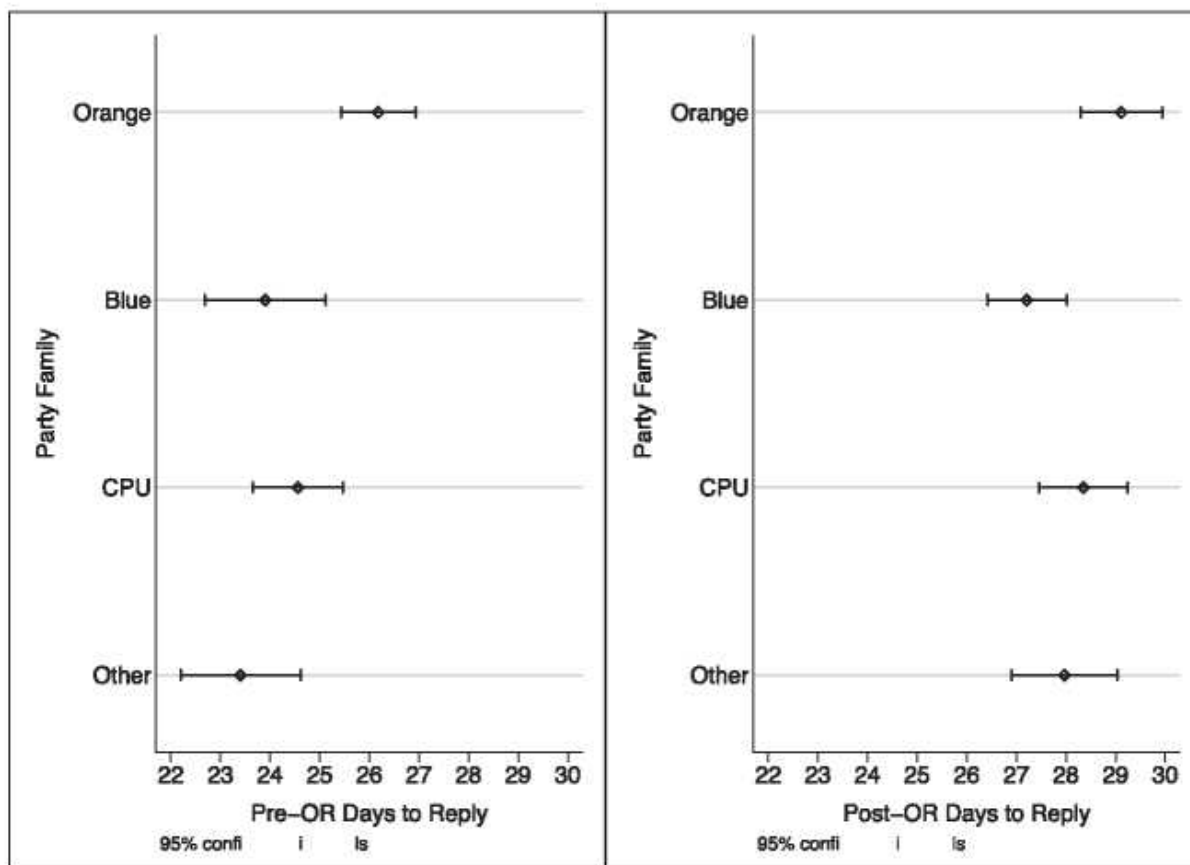


Fig. 4.3. Reply Time Before and After the Orange Revolution

affiliated deputies continued to issue large numbers of requests, as I noted above.

After Euromaidan, the average time to response was shorter—around three weeks. The response times did not differ significantly based on political orientation (see fig. 4.4). While there is variation within parties in the number of deputy requests issued by faction members, and slight variation across parties, they do not differentiate parties from one another.

Difference-of-means tests in the time-to-response for deputy requests show that there is no statistical difference between those in the major government parties, minor government parties, or the opposition. On average, response times are quite similar. This stands in contrast to the regime's behavior prior to the Orange Revolution, when requests by opposition members of parliament took longer for responses than did those from the regime-

affiliated groups. The data suggest that government responses have probably been politicized at times, but after regime change that empowered a more democratically oriented leadership, the opposition's questions were answered as quickly as those from proregime groups.

To what extent were deputies satisfied with the responses? We cannot

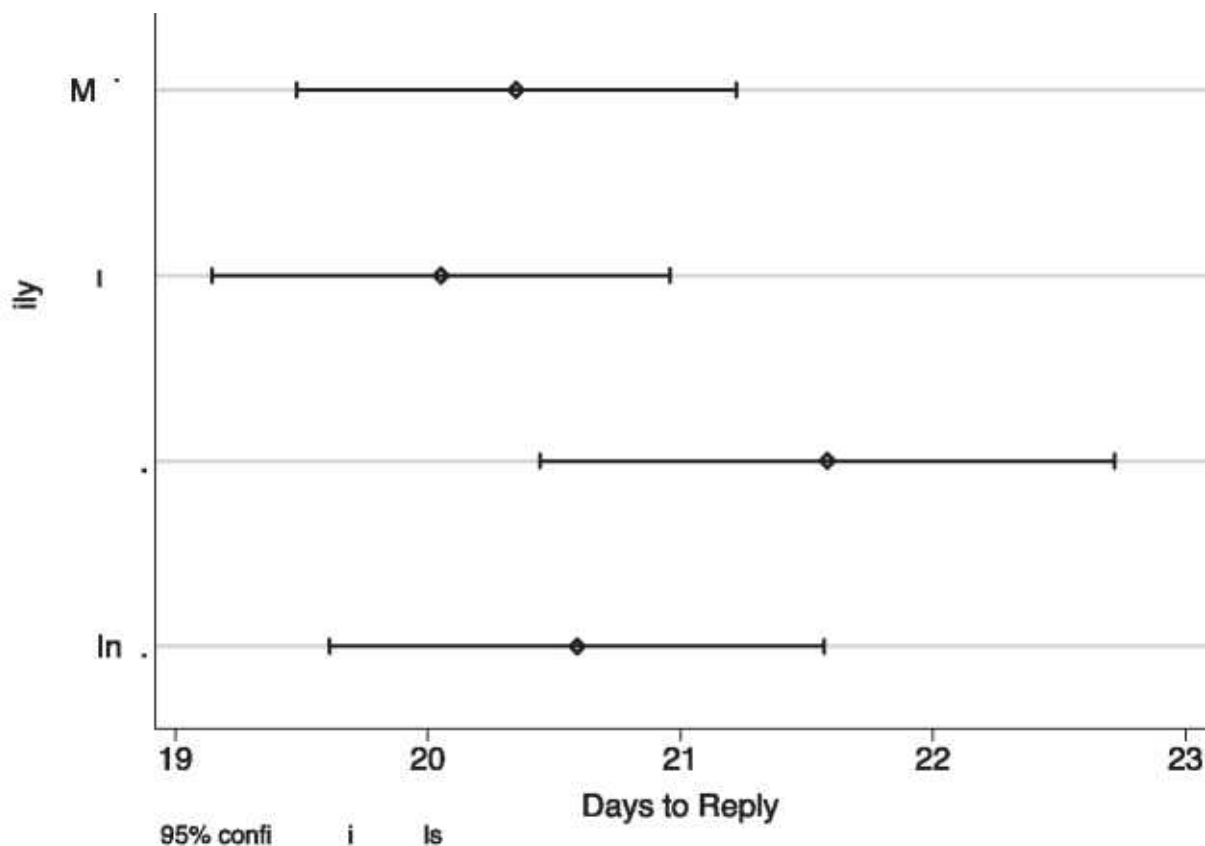


Fig. 4.4. Reply Time, 8th Rada Convocation

know about levels of satisfaction with certainty. However, deputies often reissue the same request to another agency at a later date. This behavior suggests that the deputy may be dissatisfied with the answer and may be seeking an alternate response from a different target. Of the 10,046 unique requests in the data set, 3,028 were forwarded to a second institution for another reply, 569 were forwarded to a third institution, 191 to a fourth, 122 to a fifth, 99 to a sixth, and 90 to a seventh actor. That around one-third of the requests were submitted for another review and some were subjected

to up to seven reviews suggests that deputies have been dissatisfied with the replies. This record of behavior reinforces the weakness of the tool; while legislators may “ask uncomfortable questions” and government actors are required to reply, the legislator does not have the power to enforce an adequate response.

This section has shown that at times, partisanship and the control of political institutions has influenced the use of deputy requests and the responsiveness of government institutions. Prior to the Orange Revolution, opposition parties issued more requests and waited longer for responses.

After the Orange Revolution, deputies in progovernment and opposition parties issued requests relatively equally and received responses in a similar time frame. Following Euromaidan, nonaffiliated deputies were more prolific in their use of requests, but these independents were not holdovers from the Party of Regions. The response time improved overall and was not differentiated by partisanship.

While the tool is used widely and responsiveness is generally unrelated to partisanship, deputies have shown dissatisfaction with the replies. Around a third of requests issued by deputies were subsequently reissued to another institutional target; some were reissued multiple times. This proxy measure of satisfaction suggests that deputies are willing to pursue issues of accountability, but requests alone may not alter behaviors.

The institutional mechanism of the request is not designed for enforcement of horizontal accountability, but rather offers an opportunity to raise issues of concern publicly. However, new agencies recently created in Ukraine are designed with enforcement in mind.

## **Anticorruption Institutions**

Beginning in the 1990s, Ukraine’s parliament and president codified rules ostensibly designed to combat corruption. Many agencies, including the Ministry of the Interior, the Tax Administration agency, and the General Prosecutor’s office have anticorruption activities included in their portfolios. While efforts appear to be genuine on paper, the long-standing

institutions designed to challenge corruption have not proved equal to the task, in part because powerful interests have benefited from corruption (Kudelia 2016). The institutions charged with pursuing anticorruption activities have also lacked independence, allowing cronyism to undermine the investigation and prosecution of bad actors.

Who are the bad actors? Corrupt behaviors often involve elected or appointed officials who use access to public office for personal benefit. In the Ukrainian context, however, the picture would be incomplete without including “informal officialdom”: the economic elites who are labeled “oligarchs.” I noted the importance of oligarchs in chapter 2 and discuss them in greater detail in this section. Prior to discussing the role of oligarchs, I outline the activities of new anticorruption institutions formally established after the Euromaidan protests and ouster of President Viktor Yanukovich.

## **Post-Euromaidan Reforms**

In the wake of Euromaidan, politicians and civil society initiated several efforts to address corruption. Some of these efforts focused on personnel, implicitly suggesting that outsiders might be less invested in the system of corruption and could institute change. The most prominent of these outsiders included Natalia Jaresko, an American citizen of Ukrainian heritage who became minister of finance; Lithuanian Aivaras Abromavicius, who became minister of economic development and trade; and Georgian Alexander Kvitashvili, who became minister of healthcare. Jaresko and Abromavicius were long-term residents of Ukraine while Kvitashvili relocated for the position. All three served at the national level and pursued reform efforts, but left government service when Volodymyr Groysman became prime minister, replacing Arseniy Yatseniuk.<sup>11</sup>

At the local level, President Poroshenko made one major appointment of a prominent international politician who built a reputation on challenging corruption. After he was initially appointed to an advisory body on reforms, former president of Georgia Mikheil Saakashvili was named head of Odesa Oblast, a region with a reputation for corrupt activities. Saakashvili’s term in office was short; he lasted only from May 2015 until early November 2016, when he resigned. Saakashvili openly accused President Poroshenko

of corruption and organized an anticorruption movement that was widely expected (at the time) to become a political party and challenge the existing leadership. A dramatic set of confrontations with state authority ended after Saakashvili's citizenship was withdrawn and he was effectively exiled from Ukraine. After Poroshenko lost the presidency, Saakashvili returned to contest the 2019 parliamentary elections, but his political party fared poorly.

Hiring outsiders with reputations as strong technocrats or anticorruption crusaders garnered domestic and international media attention, but their impact on the overall system was limited. Perhaps the most successful efforts by outsiders occurred in the health system. Ulana Suprun, an American-born medical professional who took over as interim minister of healthcare in 2016, led extensive reforms of the system. While incomplete at the time of her replacement in 2019, her reforms initiated changes designed to undermine corruption and improve services.

Changing institutions and the underlying cultural conditions that support the continued presence of corruption have more potential for impact with a longer time horizon. The Law on Prevention of Corruption was designed to address this issue, establishing independent bodies that could investigate and pursue charges against public officials engaging in corruption. The Law envisioned several institutions, including the National Agency for the Prevention of Corruption, the Special Anti-Corruption Prosecutor, the Higher Anti-Corruption Court, and the National Anti-Corruption Bureau (Lapkin 2017). Other notable anticorruption efforts included a more transparent system for government tenders and police reforms. As of the completion of this book, all of these reform efforts had not yet been firmly institutionalized, but the public procurement and police reforms had been viewed as successful.

One of the most active of these new institutions is the National AntiCorruption Bureau of Ukraine (NABU). It was formalized by the Law on the National Anti-Corruption Bureau of Ukraine, enacted in October 2014 (with subsequent amendments).<sup>12</sup> NABU has been pursuing its mandate to investigate and initiate legal action against corrupt public officials, with 751 active investigations, 212 court cases, and 31 convictions

as of August 9, 2019.<sup>13</sup> According to its most recent report (data through the end of 2017),<sup>14</sup> the largest category of officials who have received “notices of suspicion” is heads of state-run enterprises, followed by judges and a range of other public officials. Senior national-level officials (within ministries or equivalent agencies) constituted only 3.6% of the notices (roughly five individuals). Many of the charges involve embezzlement, graft, or misappropriation of public funds, such as an October 11, 2017, case implicating a deputy minister and three others in the embezzlement of monies designated for Ministry of Defense fuel purchases. Some charges also implicate officials in failure to properly report their personal finances in e-declarations (the subject of chapter 7).

NABU officials have bemoaned delays in the judicial process, sometimes due to defendants’ failure to appear in court. NABU has also been engaged in public battles with other institutional actors, such as the Special Anti-Corruption Prosecutor’s Office (SAPO). In July 2018, a group of young men improperly entered the NABU offices, which NABU perceived as a provocation. The complaint was directed to SAPO, which ended the case without pursuing it as a legal matter.<sup>15</sup> This dispute between organizations underscores some of the challenges of addressing corrupt behaviors when partisanship and institutional power intersect.

The impact of this relatively new set of institutions cannot fully be assessed. However, the formalization of anticorruption institutions that have an independent mandate and prosecutorial authority is a promising step. These horizontal accountability institutions are only designed to address part of the problem of high-level corruption, however, because they do not have a mandate to address corrupt behaviors of nongovernment actors who informally wield levels of power and authority similar to those of elected and appointed officials.

## **Oligarchs and Accountability**

No discussion of Ukrainian politics is complete without addressing the role of oligarchs in the political, economic, and social life of the country. Oligarchs are generally characterized as powerful business elites whose economic success is owed both to entrepreneurial acumen and questionable

(if not illegal) practices. The term “oligarch” usually applies to the richest and most powerful economic actors who also wield political power (Guriev and Rachinsky 2005).

Ukraine’s business sector<sup>16</sup> is a critical actor in electoral politics, and the party system has developed a deep reliance on its financial resources to function (Kuzio 2014). While private financing of political organizations and campaigns is found in some democratic societies, the infiltration of business interests into politics has raised alarms about corruption. Oligarchs have been influential as elected politicians; Rinat Akhmetov served in parliament and Petro Poroshenko served as president. They have accepted appointed positions, such as Ihor Kolomoyskyi, who was governor of Dnipropetrovsk Oblast in the crucial period after Euromaidan. They have exerted power behind the scenes as financial supporters of political and policy interests (e.g., Viktor Pinchuk, Dmytro Firtash, and Kolo-moyskyi).

When they are elected or appointed politicians, oligarchs are vulnerable, in principle, to the accountability mechanisms that all politicians confront. However, oligarchs are not the same as other politicians. Their wealth gives them access and influence at the top, and their control over large-scale employers gives them leverage at the ground level. Corrupt deal-making, such as in the trade in natural gas with Russia, control over domestic extractive and other large-scale industries, and improper deals that permit business owners to abscond with tax wealth through kickbacks on contracts or theft, has helped many of the most successful oligarchs amass their fortunes (Aslund 2014). Oligarchic involvement extends beyond economic resource management into the media and elections (Wilson 2000, 2005), where ownership of national-level media enterprises shields them from scrutiny and allows them to advance their political interests.

Access to government positions, either through direct control by the oligarchs or indirect control through the leverage that their financial donations provide, gives oligarchs disproportionate power over regulatory or other policy actions that could hurt their businesses. In elections, oligarchs invest in candidates and parties, facilitating fraud to ensure that their preferred outcomes are realized. For example, strong evidence of



business owners pressuring employees to participate in elections and support particular candidates has been demonstrated in Russia (Gehlbach et al. 2010; Frye, Reuter, and Szakonyi 2014), and similar dynamics are at play in Ukraine (Herron and Sjoberg 2016). In many ways, participation in electoral politics can be viewed as an extension of the business model. To direct and control resource flows, oligarchs personally or through proxies ensure that their interests receive attention and support.

Oligarchs are situated in Ukraine's politics as a parallel, informal<sup>17</sup> power source. To advance their interests, oligarchs have impeded anticorruption reforms (Wilson 2016). Given their interests in these reforms and the threats that these reforms pose to oligarchic power, how can we conceptualize the relationship of oligarchs to accountability tools? If we consider oligarchs' informal power to be equivalent to the formal power of many national-level institutions, then it may be appropriate to consider them in the context of horizontal accountability. The main methods of holding them accountable would be through legal proceedings if they violate the criminal code or run afoul of anticorruption institutions.

The management of the "Black Ledger" case that emerged in 2016 illustrates the boundaries of NABU jurisdiction for pursuing high-level corruption, especially among oligarchs. Viktor Trepak, a former official with the Security Service of Ukraine (known as the SBU), and Serhii Leshchenko, a member of parliament, obtained financial documents that allegedly detailed illicit payments by the Party of Regions to a range of domestic and international actors, including then-CEC director Mykhailo Okhendo-vskyi and American political advisor Paul Manafort.<sup>18</sup> NABU, in cooperation with the Special Anti-Corruption Prosecutor's Office (SAPO), advanced the investigation against Okhendovskyi.<sup>19</sup> At the same time that the Black Ledger investigations were proceeding in Russia, US media and law enforcement increased attention on Manafort's activities in Ukraine. Manafort had been associated with the Party of Regions since he was hired to rehabilitate its image along with Yanukovych's career prospects in electoral politics after the Orange Revolution. While improper payments directed by Ukrainian public officials, or to Ukrainian public officials, would fall under the jurisdiction of NABU, NABU noted in a press release that Manafort did not serve in this capacity and was not a

subject of its investigations.<sup>20</sup> Okhendovskiy fell within its jurisdiction; Manafort did not.

Oligarchs who also ***occupy government positions*** could be subject to investigations by NABU. If they were involved with illicit activities in partnership with government officials, the oligarchs would probably be subject to prosecution under criminal code violations but not through NABU investigations. In other words, although they often wield political power, many oligarchs do not fall under the oversight of anticorruption agencies as currently defined. The failure of horizontal accountability mechanisms to adequately encompass oligarchs illustrates the general limitations of horizontal accountability. Compared to vertical accountability mechanisms, horizontal accountability tends to be weaker. Officials have mechanisms to “ask uncomfortable questions,” and sometimes have the ability to pursue criminal prosecution, but the implementation of horizontal accountability is often delayed or diminished by partisan considerations.

This tension is poised to rise to the forefront of Ukrainian politics in the wake of the 2019 election cycle. Ihor Kolomoyskyi backed Volodymyr Zelenskyy and his party, and Zelenskyy appointed Kolomoyskyi’s attorney, An-driy Bohdan, to head the presidential administration. This close association between the new president who promised to fight corruption and one of the most powerful Ukrainian oligarchs points to a great potential for discord.

## **Conclusion**

This chapter addressed the second major form of accountability: horizontal accountability. The underlying principle of most horizontal accountability tools is that public officials may use formal powers to probe the behavior of institutions or individual actors. The exposure that these investigations bring to corrupt behaviors may induce politicians to alter their behaviors, or they may precipitate institutional censure, sanctions, or criminal prosecutions.

Ukraine has developed many formal tools of horizontal accountability, but they tend to be weak. The chapter demonstrated that deputy requests are commonly deployed in parliament. Prior to the Orange Revolution, they

were used primarily by the opposition, which experienced delays in answers from the regime. After the Orange Revolution, the former ruling party increased its use of this tool, and former opposition members continued to make requests. Government actors have been relatively consistent in their responses after Euromaidan, providing an answer to requests after three weeks, on average. Requests cannot force action, however; they can only compel a response. Around one-third of requests were forwarded to another government actor for response, suggesting that initial replies were unsatisfactory. Requests are valuable to identify areas of concern, but may be relatively weak in forcing corrective action.

The post-Euromaidan movement emphasized anticorruption; many of these efforts directly challenged powerful actors who benefited from the integration of corrupt practices with the regime (that is, from the normalization of corruption). The new institutions have pursued allegedly corrupt officials through prosecution, and the effectiveness of these bodies, like NABU, cannot yet be determined. While the level of activity shows promise, anticorruption actors face important limitations due to some failures to collaborate and also to the boundaries of their authority.

Most notably, oligarchs and their allies—who exercise important influences over Ukrainian politics—are largely immune from anticorruption bodies if they do not formally serve in public office. Oligarchs extend their influence through the political system using their wealth and connections. Although the 2019 election cycle emphasized anticorruption as a major theme, oligarchs played an active role. In the presidential election, the oligarch Petro Poroshenko sought re-election and faced off against Volodymyr Zelenskyy, a candidate backed by a prominent oligarch.

In the context of Ukraine, the power of the informal sector may be simultaneously a shortcoming and strength in accountability efforts. The next chapter addresses how actors outside of government—especially in the NGO sector—attempt to shed light on corrupt behaviors and press government actors to use accountability tools.

## 5 Diagonal Accountability

In an opinion piece published in the *Washington Post* on June 18, 2018, then-president Petro Poroshenko lauded the passage of a bill establishing the Anti-Corruption Court that I noted in the previous chapter. In his essay, Poroshenko stated that his “allies in this endeavor were Ukraine’s vibrant civil society and its volunteer networks . . . [and] international partners.”<sup>1</sup> While Poroshenko’s commitment to anticorruption institutions has been questioned,<sup>2</sup> the dedication of nongovernmental organizations (NGOs) and citizen groups to these efforts is widely acknowledged. This chapter speaks directly to nongovernmental “civil-society” actors and “volunteer networks” that play a crucial role in advancing the third form of accountability: diagonal accountability.

Scholars and development practitioners generally agree on the definitions of vertical and horizontal accountability, discussed in the previous two chapters. The definition of diagonal accountability, a more recent concept, enjoys less consensus. In some conceptions of diagonal accountability, governmental units that are not directly involved in principal-agent relationships perform oversight roles (e.g., ombudspersons) (Bovens 2007a, 2007b; World Bank, n.d.). Other approaches emphasize the intersection of citizen activism and oversight (Goetz and Jenkins 2001; Luhrmann et al. 2017) as diagonal accountability. I use the latter definition in this chapter.

Diagonal accountability involves civil-society actors working alongside or within formal accountability institutions.<sup>3</sup> These actors may provide information about misdeeds, generate additional pressure for corrective measures, or otherwise act to strengthen the response of formal institutional actors. The primary actors in diagonal accountability do not occupy formal positions to hold others accountable, but facilitate accountability by working through official institutional mechanisms.

Ukraine’s recent political history demonstrates that civil society has played an extraordinarily important role in accountability. During the late Soviet period, the “Revolution on Granite” achieved one of its key goals—the resignation of then-Council of Ministers chair Vitalii Masol. Around a decade later, the “Ukraine without Kuchma” movement failed to remove the president, but set the stage for the “Orange Revolution” that overturned falsified elections. Yet another decade later, the Euromaidan “Revolution of Dignity” led to the ouster of Viktor Yanukovich through public protests and the responses of government institutions. These movements have several common elements, the most important of which is the role of civil society in spearheading activities to hold officials accountable.

Ukrainian civil society has developed tremendously in size, scope, and capabilities since the collapse of the Soviet Union. The Soviet system did not allow much space for civil society, although organizations began to emerge during Gorbachev's reforms in the mid-late 1980s. Civil society was central to the logistical planning and execution of protest movements, and Ukrainian groups became increasingly sophisticated in staging lengthy, large-scale demonstrations. Beyond public protest, however, some groups developed into professionalized watchdogs that monitor and report on government activities and provide recommendations about reform efforts.

This chapter will not catalog all of these public organizations, but will emphasize their work in two areas: monitoring elections and publicizing illicit proxy voting in Ukraine's parliament. The chapter begins with a discussion of civil society and its development in Ukraine. It subsequently addresses how diagonal accountability is related to election processes and legislative behavior, describing the role of civil-society groups in alerting the public and officials to alleged rule violations, and advancing recommendations about best practices that could improve how institutions function.

### **Civil Society and Diagonal Accountability**

Civil society—the place where citizens interact with one another in voluntary groups that are independent from the state—is generally considered to be a critical component of successful democratization (Kubicek 2002). The presence of robust civil society can empower citizens and give them a sense of efficacy, bind them together outside of state control, and serve as a check on government activities. Yet not all manifestations of civil society contribute to democratic outcomes and open, free societies (Way 2014).

Ukraine largely had to build civil society anew after communism's collapse. Some scholars have noted that civil society had antecedents, especially in the western part of the country, as early as the late nineteenth century (D'Anieri, Kravchuk, and Kuzio 1999; Kuzio 2010). Civil-society activity existed in the Soviet period largely among dissidents (Polese 2009), because the Soviet state eviscerated civil-society groups that could engage the general population, leading to a lack of institutionalized organizations after communism's demise.

For example, trade unions often form an important part of civil society in Europe and North America, but the Soviet state co-opted union organizations and made them an extension of the regime. While neighboring Poland saw the emergence of an independent trade union—Solidarity—that formed the core of the anticommunist movement, unions did not lead independence efforts in Ukraine. Independence activists considered unions to be suspect due to their regime affiliations, and unions did not emerge as strong advocates for workers, central clearinghouses of information

and networking, or crucial mobilizers in elections during Ukraine's transition to independence (Kubicek 2002) as they did in other countries.

While Ukraine lacked large-scale independent organizations that could coordinate citizen activities, elements of civil society began to emerge around the time of communism's collapse. In 1989, the independence movement Rukh was founded, and the Byzantine Rite (Greek) Catholic Church re-established itself after being banned by the Soviet state (Motyl 1993). Both of these organizations could claim to be "indigenous" Ukrainian groups not beholden to the communist state.

Civil society continued to develop in the 1990s, but observers bemoaned its weakness, noting that the communist legacy undermined civil society due to long-standing skepticism of organizations, failures of postcommunist reforms to deliver quick economic successes, and the persistence of private friendship networks (Howard 2002). Nevertheless, other important efforts to engage citizens emerged, often coordinating protest activities such as the Ukraine without Kuchma movement in 2000 or PORA in 2004<sup>4</sup> (Polese 2009).

Before and during the Orange Revolution, civil-society organizations (e.g., PORA/OPORA,<sup>5</sup> Committee of Voters of Ukraine) were crucial players in mobilizing voters and protesters (Polese 2009). Participation in civil society was associated directly with participation in protest activities (Beissinger 2013). In contrast with the Orange Revolution, opposition elites did not seem to develop strategies to launch the Euromaidan protests in 2013. But opposition parties and civil-society organizations were involved in mobilization efforts, using social media to amplify the initial calls to protest (Onuch 2015) and helping to coordinate tactics after the encampments were established (Diuk 2014). While civil society was an important contributor to Euromaidan, it seems to have played a stronger role in coordination than in the initial mobilization (Way 2014).

Public opinion data suggests that participation in civil-society organizations is relatively low, with roughly 20% of Ukrainians indicating that they are active in at least one group. This level of reported activity has been relatively stable over the last decade.<sup>6</sup> Other data from the World Values Survey (WVS) suggests that participation is actually lower and provides a deeper perspective on Ukrainians' behaviors relative to their neighbors in the former Soviet space and in the European Union. The WVS is an international effort to understand how citizens relate to society and the state, especially in terms of the values that they hold. The WVS includes a battery of questions about civil-society participation, asking respondents if they are active members, inactive members, or nonmembers of several types of organizations: religious, sports, arts, union, environmental, professional, charity, consumer, self-help, or others. Table 5.1 displays responses from Ukraine and neighboring countries.

While participation varies by type of organization, Ukrainian respondents are similar to their peers in most postcommunist countries. Nonparticipation rates are high across almost all organizations and countries, and active participation is low. In this particular collection of countries, participation rates for some organization types in Sweden and Germany stand out as unusually high, but even established Western European countries show disengagement from formal membership in groups. The lack of participation in civic organizations is not a new phenomenon, as it has been famously documented by Putnam (2000) in the United States.<sup>7</sup> In short, Ukrainians are not especially active as official participants in organized groups, but they are not extreme outliers in this behavior.

Some scholars have suggested that the emphasis on organizations in Ukraine's civil society misconstrues how Ukrainian citizens interact with the state. The low level of membership in civil society noted above implies a lack of engagement, but masks changes in individual attitudes toward the state (Stepanenko 2006). Citizens appear to be activated and willing to participate in demonstrations, but their actions are not always prompted by organizational cues.

[illegible]

Inactive	10.4	7.8	6.2	5.5	1.6	4.4	3.5	0.6	1.9	2.3
Active	3.8	10.6	8.3	1.0	0.7	3.3	1.6	0.2	1.3	5.1
Georgia Nonmember	79.0	98.8	98.1	99.0	99.6	99.4	99.5	99.8	99.6	99.3
Inactive	14.1	0.5	0.9	0.6	0.2	0.0	0.3	0.0	0.2	0.4
Active	6.9	0.5	0.9	0.3	0.2	0.5	0.1	0.1	0.1	0.2
Germany Nonmember	51.7	62.6	85.3	87.9	93.2	91.1	86.7	98.1	94.9	N/A
Inactive	34.2	11.0	6.4	8.5	4.4	5.3	7.7	1.6	2.6	
Active	14.1	26.4	8.2	3.5	2.4	3.3	5.6	0.1	2.3	
Poland Nonmember	72.5	87.3	88.9	88.5	95.4	92.7	92.1	97.1	95.5	94.1
Inactive	12.0	6.4	4.9	7.0	3.0	3.9	3.8	2.0	2.4	1.7
Active	15.2	6.0	6.0	4.3	1.6	3.3	3.9	0.7	1.8	3.7
Romania Nonmember	80.3	90.2	92.3	91.1	95.5	94.4	95.3	96.6	95.0	96.2



Inactive	8.6	4.2	3.1	3.9	2.7	2.8	2.5	2.1	2.0	2.1
Active	10.7	5.0	4.1	4.4	1.3	2.3	1.8	0.7	2.5	1.3
Russia										
Nonmember	93.2	93.0	95.8	88.4	98.0	95.7	97.3	97.8	96.5	95.9
Inactive	4.1	3.9	2.1	8.6	0.9	1.9	1.2	1.1	1.8	1.8
Active	2.0	2.4	1.5	2.0	0.4	1.4	0.6	0.3	1.0	1.4
Sweden										
Nonmember	81.8	65.7	77.8	50.5	88.6	83.3	70.7	70.9	91.4	73.0
Inactive	10.6	11.6	9.8	35.1	9.4	9.5	18.0	22.7	4.1	9.6
Active	6.6	22.5	12.1	12.8	1.5	5.1	10.8	5.5	3.7	15.5
Ukraine										
Nonmember	88.1	92.6	95.6	85.5	98.7	96.8	97.2	98.0	97.9	97.0
Inactive	7.6	3.7	2.8	11.8	1.1	2.5	2.0	1.2	1.3	2.1
Active	4.3	3.7	1.6	2.7	0.3	0.7	0.8	0.8	0.8	0.8

Source: World Values Survey (<http://www.worldvaluessurvey.org/>). The notations underneath category entries (V25-V35) indicate the WVS question label. The results are from Wave 6 of the WVS, with results reported from different years (Belarus, 2011; Estonia, 2011; Georgia, 2014; Germany, 2013; Poland, 2012; Romania, 2012;

Russia, 2011; Sweden, 2011; Ukraine, 2011). The data may not sum to 100% due to rounding.

Instead, individuals, sometimes primed by social media, have mobilized to challenge state behavior. Mobilization outside of organizations is especially associated with young Ukrainians, who played important roles in street protests and disseminating news about antiregime activities using various forms of online communication (Diuk 2013).

While the rise of civil society is often characterized as a positive development, it can also have negative manifestations. In the case of Ukraine, radical-right organizations have also enhanced their visibility, in part due to participation in major protest events. Right Sector (Pravyi Sektor), a small, loose group of extremists, developed a reputation for leading violent responses to government repression during Euromaidan. Most scholars have argued that it was not the primary force leading public protest (Onuch 2015), and was less organized than advertised. “Right Sector” became a label used by many small groups rather than developing into a structurally sound organization (Shekhovstov and Umland 2014). However, other researchers dispute this characterization, suggesting that the far right is more organized and important in public mobilization efforts (Ishchenko 2016).

The activities led by extremist groups are not limited to public protests. Following Euromaidan, right-wing groups formed volunteer militias that took action in the Donbas War. The transition of these groups into armed combat units has raised concerns, especially as they maintain connections to politicians and oligarchic interests (Sanders 2017). They have also developed nonmilitant arms that participate in other political and social activities. The failure of the extremist right to perform well in elections suggests that their popularity is relatively shallow in Ukrainian society, but they remain a looming presence in political and social life, and a focus of Russian-backed information operations.

In sum, if we measure Ukraine’s civil society by the extent of formal citizen participation in official organizations, it may appear to be weak because the vast majority of citizens do not engage with civil society in this way. If we broaden the assessment beyond Ukraine, we see that Ukrainians are not unusual in this regard; citizen engagement in formal groups is not high in Ukraine’s Eurasian and European neighbors either. At the same time, civil-society groups have formed in Ukraine and have been active—and crucial—participants in large-scale mobilization efforts and in monitoring state activities. Individual Ukrainian citizens have also responded by participating in protests and engaging with each other through informal networks. The impact of Ukraine’s civil society is not reflected in the level of formal membership, but in organizational efforts to contribute to oversight and accountability. The remainder of this chapter provides more detail about these contributions of civil

society by evaluating diagonal accountability in two areas: election integrity and legislative behavior.

## Monitoring Elections

As I discussed in chapter 3, free and fair elections are a cornerstone of vertical accountability. For citizens to hold elected officials accountable, they must be empowered to make decisions at the ballot box. The decisions that citizens make must be validated by a process that accurately translates their preferences into outcomes. In its postcommunist history, Ukraine's election administration has often failed to provide an environment conducive to the accurate translation of votes into seats. Because of this shortcoming, elections are one of the most visible examples of "normalized corruption." Politicians take advantage of the inchoate party system and weak enforcement to manipulate election administration and to gain advantages at the ballot box. I will illustrate elements of this manipulation in chapter 6. Methods to infiltrate and corrupt elections extend beyond the techniques discussed in the next chapter, however. This section provides an overview of what some have labeled the "menu of manipulation" (Argersinger 1985-1986) and ways in which civil-society actors attempt to counteract its effects.

If institutionally sanctioned methods of accountability have permitted corruption to penetrate the election process, how can accountability tools be buttressed to provide a more robust response? Diagonal accountability, with civil-society organizations extending the capacity to provide oversight of the state and directing attention to abuses, is one such mechanism. When considering the relationship of diagonal accountability to elections, it is important to recognize that varied approaches may be needed to monitor different stages of the election process. Prior to election day, free and fair practices can be undermined by manipulation of the rules related to **barriers to entry** and **campaign practices**. On and after election day, bad actors may attempt to pervert the **translation of votes into seats**. In the remainder of this section, I discuss how civil-society actors have developed techniques to monitor and report on violations in each of these three components of election management.

Before voters, candidates, or political parties may participate in elections, they must overcome several **barriers to entry**. For parties, these may include registration requirements to become official organizations, such as meeting a membership threshold, publishing a platform, disclosing sources of finance, or issuing other formal statements of personnel, technical, or material resources. After being recognized as organizations that may contest elections, parties may face ballot access rules that require them to gather citizen signatures or submit financial deposits to be granted a position on the ballot.<sup>8</sup> Entry requirements may be used as vehicles for electoral manipulation when they privilege certain groups, especially those associated with government, and undermine access to the polls by others. The leaders and ruling

parties in some post-Soviet states have used their control over barriers to entry to prevent genuine opposition candidates from participating in elections altogether (Herron 2009, 2011b). Traditional forms of election day fraud may be less evident if the choice set has already been manipulated to preclude meaningful competition.

For voters, barriers to entry may include completing registration requirements to become formally recognized voters, discovering the location of the proper polling place, accessing reliable information about candidates and parties, and learning how to cast a ballot. Unscrupulous actors intending to interfere in elections may invalidate the registration of voters; in post-Soviet elections, entire apartment blocks whose residents were expected to vote for antiregime parties have been disenfranchised (Herron 2009). They may also spread targeted disinformation to frustrate voters and persuade the likely supporters of their rivals to stay home and abstain from voting.

Efforts to manipulate elections could also affect *campaign practices*. Some methods of reaching voters (e.g., solicitation via mail, phone, or in person; television, radio, or print advertising) may be intentionally withheld from some contestants. State or oligarchic control of the broadcast media has been used to prevent the political opposition from reaching voters, especially restricted access to television and radio. In addition, proregime candidates may receive more time or more flattering coverage on news broadcasts. External actors who attempt to manipulate elections may also use these communication methods to influence behavior (Peisakhin and Rozenas 2018). Campaigns also regularly violate laws to buy votes or intimidate voters in the post-Soviet region.

Other aspects of the election campaign could be manipulated to provide advantages. For example, the release of the “Black Ledger” that allegedly showed illicit financing practices of the Party of Regions illustrates how campaign finance is poorly regulated in Ukraine and may create an unbalanced playing field.<sup>9</sup> In addition to the use of illicit financial resources, campaign finance regulations and disclosure requirements can be used to selectively remove candidates from elections by claiming that they violated election rules.

The strategic manipulation of barriers to entry and violations of campaign rules could permit powerful interests to engineer election outcomes. When these efforts occur at the workplace (Frye, Reuter, and Szakonyi 2014), in residential areas, or in other environments, they fall outside the watchful eyes of most official election observers. For these reasons, election monitoring efforts that are limited to election-day activities potentially miss important events. How have civil-society organizations in Ukraine responded to the need to efficiently and effectively observe behaviors *outside* polling places before, during, and after election day and *inside* polling places on election day?

Nongovernmental organizations have made essential contributions to oversight by observing and reporting on the integrity of the election process. International organizations often receive the most media attention as the arbiters of election quality. Domestic organizations, however, have played vital roles in gathering, analyzing, and disseminating information about the successes and failures of election administration. Compared to international organizations, domestic observer groups often have advantages of knowing the linguistic, cultural, and physical terrain. However, they may also be perceived as less neutral than their international counterparts (Carothers 1997). Observer organizations do not have the authority to take actions to directly influence the behavior of elected or appointed officials. They may, however, work with the media to publicize illicit activities or with government agencies to pursue remedies.

The largest international monitoring organizations, such as the Organization for Security and Cooperation in Europe (OSCE), and domestic organizations such as the Committee of Voters of Ukraine, assign “long-term observers” who are tasked with monitoring the process prior to and following election day. They collect, analyze, and distribute information about the general environment in the regions where they are deployed. They use this information to help guide the deployment of “short-term observers,” who arrive a few days before election day and are dispatched in large numbers to polling places across the territories where they are assigned. Long-term observers are generally few in number and have limited capacity to directly observe illicit behaviors. Short-term observers are often used in large numbers, but are in position to observe for a more limited period of time.

Because of this approach to recruiting and assigning observers, traditional election monitoring missions are better equipped to discover violations associated with the ***translation of votes into seats***. This process encompasses the casting, counting, and vote-compilation processes managed in polling stations on election day and at regional commissions following the initial vote tabulation. Short-term observers concentrate on documenting evidence of efforts to intimidate voters or buy votes, to stuff ballot boxes, to improperly report election results, and to use other techniques to alter the behavior of voters or the manner in which their votes are counted.

Table 5.2 identifies domestic organizations that registered at least 1,000 short-term observers in elections beginning in 2006. One organization stands out as the most consistent contributor: the Committee of Voters of Ukraine (CVU).<sup>10</sup> Like its international counterparts, CVU engages longterm and short-term observers who gather information about the election process. The organization compiles the reports and determines its overall evaluation of the elections. These evaluations are communicated to the public, media, and government with recommendations about how to improve the process over time. The CVU noted that the 2014 and 2019

election cycles were similar: elections were credible and problems were associated with unintentional errors by commissions and illicit campaign activities.<sup>11</sup>

In addition to the CVU, many other domestic organizations have participated in election observation. OPORA has registered a large contingent of observers in every election since 2012. Other domestic observation organizations are ephemeral, and are sometimes affiliated with candidates or parties (such as Team “Ze” in the 2019 presidential election). Although they field many participants, these groups are less likely to make readily available public reports about their findings.

The findings of observer groups from post-Euromaidan elections illustrate how observation has changed over time. Prior to the Orange Revolution, election observers reported evidence of large-scale, systematic efforts to manufacture election outcomes favorable to the regime. The failure of Viktor Yanukovich’s team to steal the 2004 elections seems to have altered how politicians approach election manipulation. While vote buying and other illicit campaign activities have continued, they are not as widespread as they were in the 1990s or early 2000s.

**Table 5.2. Domestic Observer Organizations and Number of Registered Participants**

Organization	2006 Par.	2007 Par.	2012 Par.	2014 Pres.	2014 Par.	2019 Pres.	2019 Par.
Committee of Voters	3,166	2,486	6,507	N/A	4,295	2,089	1,736
OPORA			3,871	N/A	4,446	5,133	5,570
Ukrainian Strategy							1,897
Strategy of Ukraine							1,606
Center of Disabled Rehabilitation							1,563
Community Solidarity							1,048
Advanced Legal Initia- tives						6,898	3,953
Ukrainian Center of a Democratic Society						27,279	
Team "Ze"						11,447	
Youth Solidarity						7,186	
Department for Detecting and Combating Corruption						3,317	
Center to Support Com- munity Initiatives						3,128	
Women of Fatherland						1,985	
Mykolaiv—A Reliable Partner						1,882	
Volunteer League						1,867	
UDAR						1,698	
Servants of the People						1,139	
National Democratic Youth League						1,098	
Kontinent			6,482		6,402		
UDAR				N/A	3,172		
Zastup					10,332		
Triumvirat					3,067		
International Anticorrup- tion League					2,431		
Beautiful World			7,024				
Youth, Community, Power			5,222				
Institute of Private & Public Rights			1,607				
Beautiful Ukraine	1,474	1,351					
New Generation		1,046					

Source: Data from the Central Electoral Commission of Ukraine. 2019 Parliament: <https://www.cvk.gov.ua/pls/vnd2019/wp141pt001f01=919.html>; 2019 Presidential: <https://www.cvk.gov.ua/pls/vp2019/wp141pt001f01=720.html>; 2014 Parliament: <http://www.cvk.gov.ua/pls/vnd2014/wp141?PT001F01=910>; 2014 Presidential: <http://www.cvk.gov.ua/pls/vp2014/wp001>; 2012 Parliament: <http://www.cvk.gov.ua/pls/vnd2012/wp141?PT001F01=900>; 2007 Parliament: <http://www.cvk.gov.ua/pls/vnd2007/w6p001>

Note: The table includes registered domestic organizations with more than 1,000 observers. The CEC does not list domestic observers prior to the 2006 parliamentary elections or for the 2010 presidential elections. The 2014 presidential election data identify registered domestic observer groups, but do not list the number of observers.

Fraud still occurs in the post-Orange revolution era, but it seems to be locally oriented. As an election observer in the 2010 local elections, I witnessed egregious efforts to commit fraud in some polling places in Odesa. The chair of the precinct electoral

commission where my team was observing the overnight vote count admitted that the voter registry had been altered improperly and refused to count the ballots while we were present. The extensive violations that I documented do not seem to have been consistently replicated across the country, however. This observation is supported by the CVU, which concluded that the process could be considered acceptable at the national level, but it was often not acceptable at the local level (Herron and Boyko 2012). The transformation of influence efforts from national-level operations to smaller-scale local operations using a more restricted set of tools affects election observation activities.

Election observation exemplifies diagonal accountability in many ways. Domestic and international groups—many of whom are nongovernmental actors—observe the election process, note successes and failures, and make reports to relevant institutions within the host country and abroad. The organizations and individual observers have no direct authority over the officials in election management bodies conducting elections in the polling stations, over counting and aggregating results in districts, or over certifying outcomes in the national commission. They are not imbued with parallel powers either. Instead, reports from these organizations can inform those who have the ability to exert vertical or horizontal authority: election administrators, law enforcement, and the judiciary. Observers do not have direct authority over election administration, but reports of improper activities may generate domestic and international pressure that can serve as a catalyst for change.

While the participation of observation organizations is an important part of ensuring the process of free and fair elections, they are also limited in their ability to observe violations because they emphasize election day activities in and around polling places. Domestic organizations have also developed methods to gather information about violations that influence barriers to entry and campaign practices outside the view of traditional observers that I noted above.

In the 2012 elections, domestic organizations added to the toolkit of election observation by adapting a method first applied after elections erupted into violence in Kenya.<sup>12</sup> The use of crowdsourced data—in which members of the public are engaged in monitoring activities—provides information about potential abuses that occur well before, and well after, election day. In Ukraine, two organizations—Maidan Monitoring and ElectUA—established crowdsourcing efforts to track misdeeds. Both organizations accepted citizen reports of alleged violations reported via mobile phone or other online methods, with documentation required to verify the event (e.g., video or photographic evidence). This approach provides benefits that traditional election observation cannot; many violations occur outside of polling stations when short term observers are not present.



However, crowdsourcing has potential drawbacks as well. It is difficult to know if the observations of alleged violations are representative, because reporting is voluntary. It is likely that reports are filed disproportionately by young, urbanized citizens who may be more comfortable with electronic communications. Further, the organizations' requirement of providing documentary evidence may produce underreporting of violent activities. Citizens who have been victimized by intimidation may not be comfortable recording video, audio, or photographic evidence because they might fear retribution for filing reports.

Table 5.3 and figure 5.1 illustrate how crowdsourced data—despite all of the caveats—shed light on improper practices that traditional election observation missions do not uncover. The table shows the counts by both organizations in several categories of alleged violations; the map shows where these violations were recorded. Violations are not restricted to one area of the country, but are recorded in every oblast. Some regions are overrepresented in these reports, which may be due to some of the data collection issues noted above.

**Table 5.3. Reported Election Violations Using Crowdsourced Data, 2012**

Category	Maidan Monitoring	ElectUA
Vote Buying	235	187
Campaign	816	867
Intimidation	34	20
Voting Process		107
Administrative	348	172
Vote Count	14	19
Interference/Obstruction	1	127

Other	114	225
<i>Total Categorized Reports</i>	1,562	1,724



Fig. 5.1. Map of Crowdsourced Violation Reports, 2012 Parliamentary Elections

*Source:* Based on data from Herron and Sjoberg (2016). The entries represented by gray diamonds come from ElectUA data; the black circles come from Maidan Monitoring.

The range of activities included in violation reports covers some types of fraud that traditional observers may record (e.g., interference or obstruction of the process). Other violations, especially those associated with the campaign, vote buying, or intimidation would not be included in traditional election observation reports. The table shows that some of these activities appear to be widespread; alleged violations in campaign practices constitute around half of the reported events by both Maidan Monitoring and ElectUA.

Taken together, traditional election observation conducted by organizations such as the CVU, and crowdsourced reporting collected by organizations such as Maidan Monitoring, provide a fuller picture of election quality. These organizations directly challenge normalized corruption by publicizing illicit efforts to manipulate democratic activities. On their own, however, these organizations have limited authority; they cannot require election administrators to take corrective action, nor can they punish bad actors. Instead, they have to work with existing mechanisms of accountability through the legislature, courts, law enforcement, or other means. Reports of election violations have been most effective in mobilizing protests, although the goal of diagonal accountability is to work through institutions. Mass mobilization has forced the hand of institutional actors (notably in 2004), creating an indirect link between diagonal accountability tools and government actions.

### **Monitoring Legislative Behavior**

Once elections have concluded, elected representatives typically take their places in the parliamentary assembly and begin the task of developing laws and participating in oversight practices such as those described in chapter 4. In Ukraine, however, the task of legislation has been inhibited by weak party organizations, absenteeism, and gridlock (Herron 2002; Tames 2007; Whitmore 2004).

Leading parties in any legislative assembly face a challenge: they must overcome several impediments to craft bills, move them through the legislative process, and garner enough votes for the proposals to be accepted. The final step—coordinating enough support in the assembly to ensure passage—is especially challenging if political party organizations are weak and legislators are not motivated sufficiently to attend plenary sessions and cast votes. In most legislatures, political parties rely on positions called *whips*, who are typically senior members of a party tasked with mobilizing legislators to participate in voting and cast the party’s preferred vote. Weak parties and absentee legislators render the whip’s job especially challenging.

Ukrainian parties have developed an informal “work-around” for the problem of unreliable deputies: instead of mobilizing legislators to cast votes, they collect identification cards and task designated members to vote for legislators in their absence. This form of proxy voting violates Ukrainian law, which indicates that each deputy must personally vote in parliament.<sup>13</sup> However, proxy voting has become so common that it is regularly discussed in the media and tagged on media websites as *knopkodavstvo* (or “buttonpushing”).

Under normal circumstances, deputies vote in the following way. They first register for a session by showing identification and signing an attendance book. If the parliament convenes both a morning and evening session, deputies are expected to sign in for each meeting separately.<sup>14</sup> Deputies also register physical voting cards

electronically and use them to cast roll-call votes. When a vote is called on the floor, the deputy inserts the card and uses a panel on her desk to record the vote electronically. The process permits parliament to collect all possible responses: “yes” “no” “abstain” “did not vote” and “absent” Ukraine’s parliament publishes these records online; my colleagues and I have used them to estimate proxy voting activity by noting when a member is not signed in to a session but nevertheless records a vote electronically (Herron, Fitzpatrick, and Palamarenko 2019).<sup>15</sup>

In addition to monitoring this behavior through voting records, observers in the gallery can view proxy voting on the floor of parliament. The Ukrainian NGO Chesno monitors this behavior, posting videos and data online to document *knopkodavstvo*.<sup>16</sup> While proxy voting is officially prohibited, no enforcement mechanism has been adopted at the time this book was completed to punish legislators who engage in this behavior, and some cases are especially egregious. In 2011, for example, Deputy Mykola Lisin ostensibly cast votes at a plenary session several days after he died in a car accident.<sup>17</sup>

How does the process of illicit proxy voting take place? According to Deputy Mykola Tomenko, “coordinators” serve as informal whips, collecting and managing voting cards. The coordinators are responsible for a subset of members and are under the direction of party leadership.<sup>18</sup> At the appointed time, designated proxy voters cast votes for themselves and the other members for whom they are responsible. Although proxy voting was widely criticized by opposition politicians when it was organized by the ruling Party of Regions, it was not eliminated as a common practice after Euromaidan. In fact, it remains an essential component of moving bills through the legislative process. President Zelenskyy indicated that he would crack down on proxy voting and introduced legislation that would enforce penalties on those who participate in June 2019, but its effectiveness had not been tested at the time this book was completed.

Zelenskyy’s attempt to reduce proxy voting is not the first. It has persisted in part because proxy voting has been an effective way for the legislature to enact laws. Figure 5.2 illustrates the importance of proxy voting with data from the period following the October 2014 snap elections until early 2016.<sup>19</sup>

The figure shows the mean and standard deviation of proxy voting on each day in which plenary voting was held.<sup>20</sup> The mean reflects the number of votes attributable to legislators who were not present in the assembly hall when voting was conducted but for whom a vote was recorded. The standard deviation reflects variation from vote to vote on a given day. That is, if

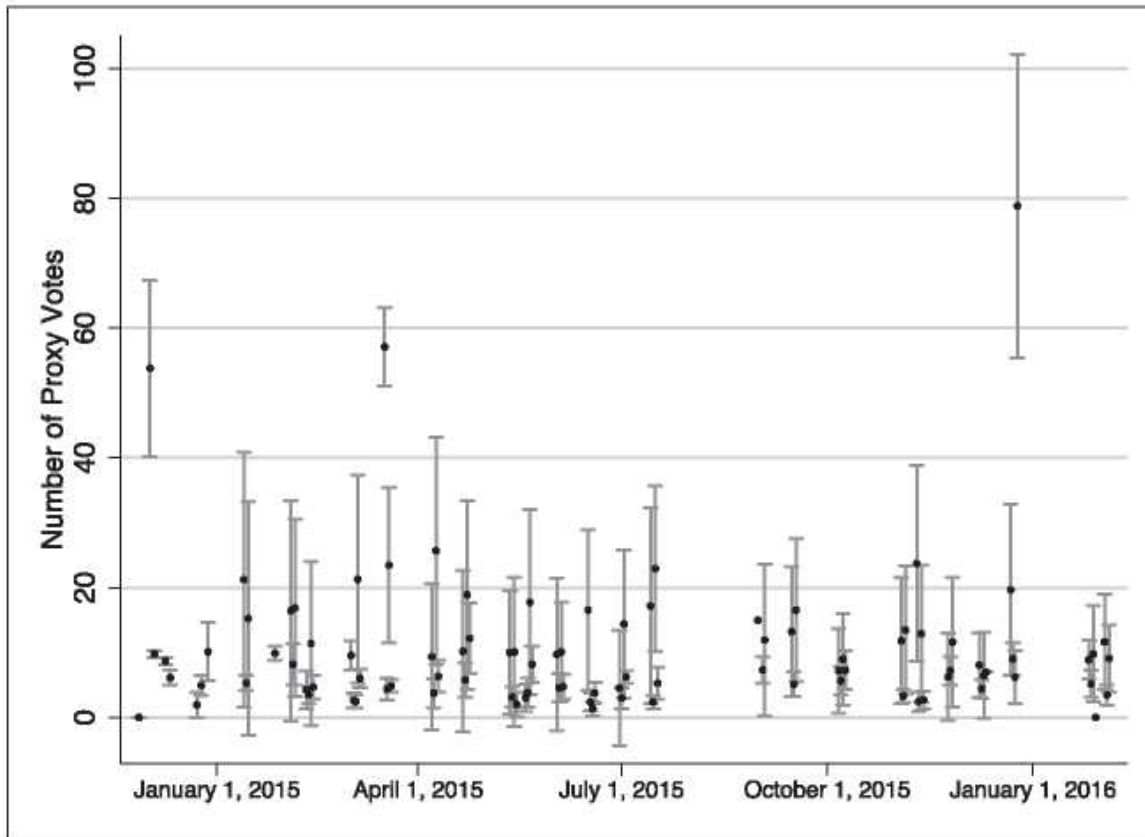


Fig. 5.2. Mean and Standard Deviation of Proxy Votes

Source: Data compiled from the Verkhovna Rada of Ukraine.

ten votes were scheduled in a particular legislative session, some votes show higher levels of proxy voting activity and others show higher levels of absenteeism. On many days, few proxy votes were evident in the data. But on three days in this period, high levels of proxy voting occurred. I will focus on one of those days—and a specific vote—to illustrate how proxy voting reflects another form of “normalized corruption.”

In any legislature, the budget is one of the most important bills to come under consideration. Legislatures generally have the “power of the purse,” the authority to allocate government monies to the state budget. Because budget allocation can be used not only for creating public goods, but for directing targeted benefits to certain constituencies, budget proposals can be contentious. The budget bill, slated for a vote on December 25, 2015, was a critical piece of legislation that the ruling parties were strongly motivated to pass. The ruling coalition has the strongest incentives to gather votes because it has control over the agenda. Consequently, it also has the strongest incentives to organize proxy voting.

At the time, the leading parties in government included the Bloc of Petro Poroshenko and the People's Front. These two parties, along with the Radical Party and People's Will Deputy Group publicly signaled that they supported the budget bill. The Opposition Bloc, Self-Reliance Party, and Fatherland Party announced that they would oppose it.<sup>21</sup> Alongside the budget bill, thirty-four other propositions were on the agenda for a vote. Twelve of these propositions were successful, and all required proxy votes to surpass the minimum threshold of 226 votes needed to pass legislation.<sup>22</sup>

Based on all of the votes held on December 25, 78 proxy votes were cast per proposal, on average, with a standard deviation of 23. The budget bill was one of the twelve successful propositions, receiving 263 affirmative votes. However, based on parliamentary records, around 119 of these votes may have been affirmative proxy votes.<sup>23</sup> This level of proxy voting is greater than one standard deviation from the mean. In short, without proxy voting, the budget bill would probably have failed.

Affirmative proxy votes appear to have been cast predominantly by members of the political parties that announced support. The Bloc of Petro Poroshenko and People's Front provided the majority of proxy votes, with 44 and 40 respectively. The Radical Party was associated with ten proxy votes, and the remainder were cast by members of the Renaissance Deputy Group, People's Will, Self-Reliance Party, and independents. The Opposition Bloc and Fatherland parties, unsurprisingly, recorded no affirmative proxy votes.

Other evidence supports the contention that proxy voting was rampant, notably observations from sitting members of parliament. Oleh Berezyuk, leader of the Self-Reliance Party's parliamentary faction, claimed that some members of the leading parties used duplicate voting cards to cast proxy votes.<sup>24</sup> The most important bill on the agenda for that day recorded the highest level of proxy voting and probably would not have passed without votes cast by absentee legislators.

The reliance of governing parties on this illicit mechanism has not gone unnoticed by civil society. The nongovernmental organization Chesno has been especially active in identifying perpetrators of proxy voting, documenting events with video evidence, and logging these practices into an online database. Table 5.4 summarizes some of Chesno's findings.

This table shows the number of members identified as perpetrating the act of proxy voting. Chesno's data supports the assertions about proxy voting above: the ruling parties—the Bloc of Petro Poroshenko and People's Front—were especially active in coordinating illicit votes. The absence of video evidence of proxy voting from some parties, such as Fatherland, should not be construed as exculpatory. Although

Chesno’s data are valuable to understand the phenomenon of *knopkodavstvo*, they may not be fully representative of the behavior. The data are limited by the ability of the observers to gain access to the assembly hall, the sight line that they secure based on their seating location, and the limitations they face in taking clear images of behavior. In other words, while the video evidence is not likely to contain false positives—they clearly show deputies casting more than one roll-call vote—the data probably omit many possible observations. The conditions of data collection require all inferences to be stated in a circumspect manner.

Chesno’s evidence provides additional context for the data gathered from parliamentary records. Chesno documented 102 cases of apparent proxy voting from February 2014 until February 2016, and posted video or photographic evidence.<sup>25</sup> Of the eighty-six videos my colleagues and I evaluated, eighty provide adequate footage to identify the proxy voter and recipient of the proxy vote, and they show eighty-seven alleged instances of proxy voting.<sup>26</sup> Around 38% of the Chesno-documented cases matched our data, depending on how attendance is measured.<sup>27</sup>

While this is a substantial proportion of matches, the video footage could not be linked in more than half the cases with legislative data. The absence of a match could be due to many possible causes. Sometimes the location of the legislator in the assembly hall is unclear. Our coding rule began with the assumption that legislators would be physically located close to their own assigned seats. But if the proxy voter is not at his station in the hall, the record may not match the registration and voting data. It is also

**Table 5.4. Proxy Voting Based on Chesno Observation**

Party Affiliation	#	%	Total
Bloc of Petro Poroshenko	23	18%	127
Renaissance Party Group	17	74%	23
People’s Front	12	16%	76
People’s Will Group	7	35%	20
Opposition Block	6	14%	43
Radical Party	4	19%	21
Independent	1	2%	49
Self-Reliance	0	0%	26
Fatherland	0	0%	19

Source: Chesno (<http://knopkodavy.chesno.org>).

possible that errors exist in the data; members of parliament may forge signatures of their colleagues in the registration records, or they may forget to sign in. Overall, however, registration and voting records, along with NGO video footage, support the

contention that illicit proxy voting has become a “normal” corrupt behavior that has been essential to pass legislation.

As I noted in the case of election observation, diagonal accountability is able to pull back the curtain on normalized corruption and reveal how illicit behaviors have infiltrated democratic processes. Uncovering the behavior is not, on its own, a corrective, however. Ukraine’s civil society has been the most active advocate for reducing corruption, but its efforts have not been supported by enforcement mechanisms designed to curtail improper activities.

## **Conclusion**

Because diagonal accountability tools do not, by conventional definition, have any enforcement mechanisms associated with them, they may be considered the weakest form of accountability. However, in the context of Ukraine, diagonal accountability may have been the most effective at holding public officials in check. Diagonal accountability has been successful when its primary enforcement outlet has not been formal institutions, but rather street protests that have propelled political change. Public protests during the Orange Revolution, coordinated with the help of civil society, compelled government institutions to backtrack on efforts to commit fraud. The Constitutional Court decision invalidating the 2004 second round of the presidential election, along with the settlement negotiated with then-president Kuchma to hold a new second round, would not have occurred without large-scale public pressure supported by civil-society actors who reported election violations and coordinated the encampments on Maidan. Similarly, Euromaidan protests that led to Viktor Yanukovich’s abdication also benefited from civil society. While organizations may have been less crucial in the mobilization than during the Orange Revolution, they played an important coordination role.

These diagonal accountability tools succeeded where vertical accountability and horizontal accountability could not. In the case of the Orange Revolution, corrupt election administration was complicit in efforts to undermine vertical accountability (and the preferences of voters). In the case of Euromaidan, formal government institutional actors were unable to combat the corruption in Yanukovich’s administration or compel him to advance the Association Agreement with the EU. Only the public sector, through diagonal accountability, was able to effect a change in course. While this illustrates the dedication of civil society and citizens to advocacy efforts, it also points to a weakness of accountability in Ukraine. The extraconstitutional ouster of sitting governments potentially threatens longterm democratic stability.

This chapter has identified only a few groups that are active in Ukraine. Other organizations have also emerged to monitor and assess aspects of governmental



behavior. The NGO CIFRA Group<sup>28</sup> emphasizes election administration, focusing its analytical work on election management bodies and their functions. The organization has also participated in election monitoring missions domestically and as an international observer group outside of Ukraine. The next chapter draws from my collaboration with CIFRA Group to assess how partisan actors have used election administration to manipulate election outcomes in their favor. It provides yet another example of the Faustian bargain that Ukrainian officials have accepted: to make democratic institutions function, they have accepted the routinization of corrupt practices.

## 6 Strategic Misrepresentation and Accountability

The preceding chapters defined accountability and corruption, placed these concepts in the context of Ukrainian politics, and provided examples of vertical, horizontal, and diagonal accountability. The narrative has also hinted at the fundamental paradox of constructing democratic accountability in Ukraine: the implementation of accountability tools has often been accompanied by compromises that allow corruption to infiltrate an ostensibly democratic process. The arguably corrupt practice of proxy voting, described in the previous chapter, became a standard operating procedure to ensure that parliament could pass legislation. This normalization allowed government to make policy, but undermined the ability of citizens to hold officials accountable. This chapter provides a detailed case study of another democratic process that has been undermined by normalized corruption.

As chapter 3 emphasized, free and fair elections are a fundamental component of democracy and vertical accountability practices. The analysis in that chapter focused on a “big-picture” evaluation of election integrity, the stability of electoral and party systems, and incumbent replacement. This chapter shifts the focus to the “nuts and bolts” of election administration and illustrates how the demands of conducting elections can create perverse incentives that undermine the quality of the democratic processes they are supposed to support.

For elections to occur, they require extensive mass mobilization of citizens to conduct a wide range of essential tasks. Election campaigns need personnel, including candidates, party officials, political strategists, pollsters, and volunteers who solicit signatures, pass out literature, encourage citizens to vote, and otherwise conduct advocacy efforts. Election administration needs a virtual army of civil servants, who set up polling places, distribute and count ballots, oversee the certification of results, and provide other essential services to make sure that citizens can cast their ballots and have them accurately counted. While election campaign staffs are tasked with working toward victory for their preferred candidates, election administrators are supposed to be neutral.

The Ukrainian government's solution to the challenge of identifying, hiring, and training hundreds of thousands of street-level bureaucrats for short-term service as election administrators has produced a paradox: the civil servants responsible for conducting free and fair elections are also incentivized to undermine them. Election Management Bodies (EMBs), the official units responsible for conducting the election process, have developed an unhealthy symbiosis with political parties. The large-scale staffing needed to conduct elections is most effectively managed by parties. At the same time, parties exploit the staffing process to "stack the deck" on commissions and use their disproportionate influence to move election results in their direction. Party influence over the casting, counting, and compilation of election returns may cross over into fraud, but more often reflects a soft perversion of the process. Although parties have exerted a negative influence on the conduct of free and fair elections in this way, EMBs struggle to manage elections without them.

This chapter investigates how corrupt activities, in the form of strategic misrepresentation and influence over bureaucratic processes, have become normalized in Ukraine's election administration. The first section situates the argument in the literature on bureaucracies and discusses how election administration fits—and does not fit—the underlying assumptions about bureaucratic incentives and behavior. The second section outlines Ukraine's election administration, describing how the demand for large-scale personnel resources is satisfied. It focuses on how political parties have been active participants in the mobilization process, both to satisfy their legitimate expectations of oversight and to exert influence over EMB decision-making. The third section illustrates how political parties strategically misrepresent themselves, using "technical" parties and candidates to exploit staff mobilization and gain partisan advantages in an ostensibly neutral process.

## **Ideal and Corrupt Bureaucracies**

### ***Ideal Bureaucracies and Election Administration***

Governments cannot function without bureaucrats. While elected officials in the legislative and executive branches are essential to law-making

functions in democratic societies, appointed civil servants translate laws into action “on the ground” These state-appointed actors can directly affect the efficacy of policies through their implementation strategies and through their efforts to ensure that street-level bureaucrats follow procedures. If civil servants refuse to enact policies, or interpret policies through a lens of ideological bias, the best intentions of lawmakers may be undermined. Thus, a critical component of a functioning, democratic society is a well-trained, neutral bureaucracy that fairly implements laws approved by the legislative and executive branches.<sup>1</sup>

The Weberian vision of a professionalized bureaucracy is often the spoken—or unspoken—baseline expectation for the organization and functions of the civil service. This ideal system features hierarchically arranged officeholders who gain positions through meritocratic advancement, manage well-defined sectors, and act based on clearly delineated standard operating procedures (Weber 1978; Meier 1987; Henry 1995). The bureaucracy in this framework should be efficient, impersonal, impartial, and fair (Kaufman 1956). However, most bureaucracies do not meet these standards. Instead, they feature personal relationships, information asymmetries, and individual-level ambitions that create opportunities for biases to be manifested: information distortion, actions favoring preferred outcomes, and variations in responsiveness to directives and rule compliance (Downs 1967; Brehm and Gates 1997; Golden 2000).

To what extent does election administration fit with these competing views of the bureaucracy? In a general sense, election administration adheres to most of the Weberian criteria for a professional bureaucracy. In elections, bureaucrats must respond to authority in a specific area; they are organized in a clear hierarchy with well-defined roles; they enter into a contractual relationship to serve in office; they receive fixed remuneration from the state; and they are subject to oversight and control (Weber 1978).<sup>2</sup> Some of Weber’s elements may not apply to election administration, notably that the position is the bureaucrat’s only occupation and that the position has a career path.<sup>3</sup> These discrepancies are not overly problematic, because several of these characteristics are not consistent with contemporary public administration as practiced in developed democratic societies (Fukuyama 2013, 352).

## ***Corrupt Bureaucracies and Election Administration***

While election administration complies with elements of a Weberian approach in an abstract sense, it is also subject to some of the potential flaws identified in the literature. Most notably, election bureaucracies may be vulnerable to individual-level incentives to distort information or to make decisions that privilege certain outcomes. The challenges to establishing a professional civil service and the vulnerability to corruption within bureaucratic organizations has been a focus of research in democratizing societies (Ball 2005; Johnston 2013; Beal and Graham 2014) and in some established democracies (Denk and Silander 2011).

Postcommunist European and Eurasian states have received significant attention for perceived corruption in the development of state functions, political institutions, and bureaucracies (e.g., Miller, Grodeland, and Ko-shechkina 2000; Hellman, Jones, and Kaufmann 2003; Hale 2015). A major challenge in developing the civil service in the region is shifting from a system built on patronage that has contributed to corruption (Heywood and Meyer-Sahling 2013) to one focusing on professionalism. In the most extreme cases of bureaucratic failure, offices are captured, traded, or sold by external actors to advance private interests (Engvall 2015).

Both entry-level and senior-level members of the civil service may engage in corrupt behaviors to satisfy personal preferences. But corruption may be most visible at lower levels of the bureaucracy (Langseth 2007), where individuals are less motivated by intrinsic payoffs (Vandenabeele 2007) and do not want to commit the time necessary to develop the expertise to advance in the system (Gailmard and Patty 2007). Incidents of corruption at the bottom of the civil-service hierarchy have important implications for the development of the state because street-level bureaucrats influence routine processes that can alter senior bureaucrats' actions (Aidt 2003). Low-level bureaucrats are especially vulnerable to quid pro quo exchanges, creating a competitive market where individuals vie for influence through bribery (Rose-Ackerman 1998).

Observations about bureaucratic corruption in the postcommunist region have been extended to suggest that a systematic "investment market"

operates in Eurasia (Engvall 2015). In this environment, entrenched bribery, extortion, conversion of public offices into private profits, and other forms of pecuniary corruption observable throughout postSoviet Eurasia are quite predictable outcomes [because states function] according to a logic resembling investments in a market, at the core of which is the sale and purchase of public offices. (Engvall 2015, 25)

Engvall's underlying concept is that public offices in the region are turned into goods that can be exchanged: appointments to public office can be obtained for a price, and information about prices is available among political elites. The purchase of offices may be considered an investment that will garner expected returns through the use of the position's administrative rights to secure favorable outcomes. In contrast to the professionalized model of a bureaucracy, the investment market is characterized by patrimonial networks that access positions through financial transactions, hiring, and advancement due to side payments rather than merit, and the implementation of biased decisions designed to return a "profit" to the investor. The profits may be financial, or they could be other material rewards.

Election administration contains critical elements for corruption to prosper: positions can be procured by "purchase," with investors gaining access to the potential for a direct return on investment in the form of favorably manufactured election results. At the same time, international organizations and Ukraine's Central Electoral Commission have instituted practices designed to professionalize the bureaucracy through training and access to resources. These countermeasures may mitigate the ability of corruption to take root and flourish.

The potential for improper practices emerges at several points in the process of administering an election, notably the need to recruit large numbers of staff members, the reliance on poorly developed political parties to fulfill that need, and the provision of remuneration. The following sections discuss these challenges in more detail.

### **Normalized Corruption in Ukraine's Election Administration**

Perhaps the greatest mobilization challenge for a democratic society, aside from fighting a war or responding to a massive natural disaster, is managing a national election. While many features that could affect administration vary across countries, such as the number of individuals eligible to participate, the number of days on which voters may cast ballots, the need to vote in-person, and the number of polling places established, elections typically involve large-scale personnel recruitment, training, and management (Hall 2018).

The government relies, in large part, on political parties to mobilize staff for elections. Parties participate in the process for several reasons, including the desire to monitor activities in polling stations and district offices to make sure that they are not cheated out of votes. In addition to presenting political parties with incentives to support a fair electoral process through active oversight, the mobilization process presents a more sinister set of incentives. By supporting minor parties that have no chance of winning — unofficially called *technical parties*<sup>4</sup>—major parties can gain additional seats on election management bodies (EMBs). The additional positions that major parties acquire via technical parties may be used as enhanced checks on their opponents to ensure that elections are fair. However, parties may use these positions as a tool to sway decisions and increase their vote totals.

### ***The Structure of Ukraine's Election Administration***

Election administration is the principal collection of organizations managing the registration, campaign, casting, counting, and certification processes. Ukraine's election administration is hierarchically arranged, with three organizational levels: the Central Electoral Commission (CEC), 225 District Electoral Commissions (DECs), and approximately 30,000 Precinct Electoral Commissions (PECs). The specific rules dictating the size of commissions, the timing of their formation and dissolution, and other logistical issues are modified regularly and vary between presidential and parliamentary elections. However, some general rules remain constant. The CEC establishes DECs a few weeks before election day, and each DEC establishes the PECs subordinate to it. In presidential elections, all candidates may send representatives to DECs and PECs. However, the high

level of demand for commission positions in parliamentary races requires the use of a lottery.

The CEC<sup>5</sup> is situated at the top of the hierarchy, with the statutory responsibility of ensuring that elections are held in accordance with the constitution and laws, that citizens are able to exercise their rights to vote, and that rules are applied consistently across the territory of Ukraine. It administers the State Voter Registry, the official national-level system for citizens to register as voters and the source of PEC-level voter lists, and it determines which international organizations may serve as official observers. The CEC consists of fifteen members who serve for seven-year terms; their nominations are submitted by the president to parliament with the expectation that parliamentary faction preferences should be “taken into account” (Law on the Central Electoral Commission, Article 6, Point 2). According to the statute, officers of the CEC, along with a minimum of five members, should have university-level legal education (Article 6, Point 6). The CEC thus consists of civil servants appointed to fixed terms of office, nominated by the president in consultation with parties and qualified by virtue of the education requirement. Partisanship affects the composition of the CEC, but seats are not assigned according to a specific quota.

The 225 District Electoral Commissions (DECs) are situated below the CEC as the second tier of the system.<sup>6</sup> DEC membership is based on partisan affiliations and may be allocated via a lottery system. DECs make decisions about the location of polling-station sites, receive and certify polling station protocols, adjudicate disputes, and ensure that PECs are staffed and functioning properly. While the number of districts has remained relatively stable over time, it differed in the earliest and most recent elections. In the 1994 parliamentary elections, Ukraine used a system of single-seat constituencies with a majority-runoff formula to constitute its 450-deputy parliament. The country was divided into 450 districts, which administered the constituency races. After electoral system reform, completed prior to the 1998 parliamentary elections, the number of constituencies was reduced to 225 and the administrative districts matched the constituencies. These managerial divisions were maintained even in elections that did not use constituencies (e.g., presidential elections). The number of DECs has been reduced de facto but not de jure since the 2014



occupation of Crimea and territory in Donbas by Russian forces and their Ukrainian allies.

The roughly 30,000 PECs are subordinated to a corresponding DEC and constitute the lowest tier of election management. PECs are formed by the DEC, and membership consists of individuals representing the parties or candidates who have designated seats or have earned positions through a lottery procedure.<sup>7</sup> PECs constitute the front lines of the elections: they are responsible for setting up polling places; controlling the chain of custody for ballots from their distribution by the DEC until their return after counting procedures have been completed; assessing identification of prospective voters; issuing ballots; maintaining the integrity of the voting process; addressing complaints or disputes; counting ballots and completing documentation about election results; and safely transporting all documentation to the DEC. Control over PECs, especially through affiliated officers, gives candidates and parties the ability to influence the interpretation and management of these processes and possibly electoral benefits.

To summarize, Ukraine's three-tiered, hierarchical election administration includes one permanent tier (CEC) and two temporary tiers (DECs and PECs) of management bodies. Positions on the DEC and PECs are allocated by partisan affiliation, with presidential elections generally accommodating all candidates' representatives and parliamentary elections requiring a lottery to assign commission seats. The total number of commissioners needed for elections is quite large—with the first round of the 2010 presidential election as an extreme example, including approximately 800,000 PEC members. Ukraine's electoral management bodies—especially the DEC and PECs—face several logistical challenges. Perhaps the most serious challenge is how to mobilize and train hundreds of thousands of poll workers in a relatively short period of time.

### ***Commissioner Recruitment and Remuneration***

While the number and size of polling places, as well as the number of eligible voters, has changed over time in Ukraine, the administrative demands have been consistently large.<sup>8</sup> If we held a hypothetical election in

which each polling station commission had ten members and 30,000 polling stations were active, 300,000 individuals would need to be recruited, trained, and deployed on election day for the elections to function. This estimate understates the true level of need because polling stations often require more than ten officials, the count does not include district commissions that add several thousand officials,<sup>9</sup> and the Central Electoral Commission's data on election officials do not include law-enforcement personnel or other officials from ancillary agencies whose services are required to safely and securely conduct elections. Regardless of how total personnel is calculated, the number of officials needed to manage elections is significant.

How is this need for personnel fulfilled? Around the time of the 2014 parliamentary elections, I conducted a series of surveys<sup>10</sup> of election administration personnel in cooperation with the Ukrainian nongovernmental organization CIFRA Group, the Kyiv International Institute of Sociology, and the Central Electoral Commission of Ukraine. We developed questionnaires for administrators in DEC and PECs, asking them a series of questions related to their personal qualifications and associations, training and preparation, concerns about security and integrity, and other issues.

We specifically asked respondents how they were recruited to serve on election commissions. Among DEC members, 56.8% indicated that they were recruited by party activists or organizations; 26.8% by family members or friends, and 16.4% by other sources. Among PEC members, 36.2% indicated that they were recruited by party activists or organizations, 47.9% indicated that they were recruited by family members or friends, 3.0% indicated that they were volunteers, 1.8% indicated that recruitment was due to previous election experience, 0.4% indicated that recruitment occurred in the workplace or by management, and 2.8% indicated that they were recruited by another source. Respondents offered a wide range of answers for the "other" sources, including members of the current PEC, NGOs, individual candidates for office, and specific party organizations.<sup>11</sup>

While the responses show a diverse set of recruitment tools, two networks emerge as the most important, at both the DEC and PEC levels: kin and

friendship networks and political party organizations. It is possible that these two paths to recruitment are intertwined; party organizations may call on individuals to explore their personal connections to find participants willing to represent the party or candidate on commissions. The demands for personnel mobilization necessitate the use of many methods to fulfill commission needs.

The modest pay for election commissioners generates another recruitment challenge. In 2014, members of PECs received 243 hryvnia (roughly \$18 at the time) for the voting and counting process (two days of work); DEC members received 600-700 hryvnia (roughly \$55 at the time). Commissioners could receive additional payments if the budget had unused resources, but the amounts were typically small.<sup>12</sup> Commissioners at both levels generally expressed dissatisfaction with the level of state compensation. According to the surveys, 28.4% of DEC respondents found official compensation to be completely or somewhat satisfactory,<sup>13</sup> whereas 53.9% found it to be somewhat or completely unsatisfactory.<sup>14</sup> Attitudes were similar at the PEC level. Only 27.2% of PEC respondents found state compensation to be somewhat or completely sufficient; 48.4% found it to be somewhat or completely insufficient.<sup>15</sup> Concerns about the low level of pay create opportunities for well-resourced competitors to recruit commissioners who will serve their interests.

Unofficially, parties and candidates provide side payments to commissioners who represent them on the commissions. Reportedly, these payments are well above the standard stipends, in the range of 500-1,000 hryvnia in PECs. Commissioners not only stated that this supplementary compensation was common, but that it was important for participation. In the pre-election PEC survey, 25.5% of respondents acknowledge that commissioners receive additional pay from parties or candidates; 36.6% of respondents answered in this way in the postelection poll. In a 2019 follow-up study,<sup>16</sup> 10.9% indicated that at least some members of the commission received side payments.

While only a quarter to roughly a third of respondents noted that side payments occurred in 2014 and a smaller proportion in 2019, many more recognized the importance of these payments.<sup>17</sup> When asked how

important they found compensation from parties or candidates for commission work, 28.6% of DEC members and 50.5% of PEC members indicated that it was very important or important to their participation on the commission.<sup>18</sup> After the election, the survey also asked PEC respondents if they were satisfied with the compensation that parties provided. The plurality of respondents was satisfied (47.0% were somewhat or completely satisfied). Respondents who were dissatisfied noted that pay was less than promised, later than promised, or insufficient for the amount of work expected.<sup>19</sup>

Many respondents also noted that additional compensation came with implied expectations. When asked if parties that provide payments expect better results in the 2014 surveys, 20.4% of respondents strongly or somewhat agreed; this outcome dropped slightly to 17.5% after the election. Thus, around one-fifth of respondents identified an implicit quid pro quo in the relationship: parties paid commissioners for “help”

How could the quid pro quo be realized? Commissioners could benefit their patrons in several ways, not all of which explicitly involve illegal practices. For example, commissioners could interpret questionable ballots that favor their patron more flexibly than their competitors. I observed this behavior in a polling station during the second round of the 2004 presidential election. Egregious fraud in that election sparked the Orange Revolution, but the influence of biased commissions was also evident. Serving as an international observer, I was assigned to a polling place in Kherson, a city considered to be a battleground between Viktor Yushchenko and Viktor Yanukovich. During the course of counting ballots, the commission identified a few dozen that were questionable, largely because voters had crossed off the name of one candidate and checked the box next to the name of the other. Because Ukraine used negative balloting in previous elections, older citizens were probably habituated to crossing off the names of candidates they did not support. Technically, these ballots violated the law, which required voters to mark only the box next to the name of their preferred candidate. However, the commission interpreted ballots favoring Yanukovich as valid, citing the voters’ intent, and similar ballots favoring Yushchenko as invalid, citing the law. Because the commission was dominated by members who supported Yanukovich, this decision was

certified. Although it violated the spirit of fairness and could be characterized as an improper manipulation of the vote count, commission members did not formally commit fraud by interpreting the ballots in this manner.

The problems of recruitment and remuneration can be summarized in the following way. Election administration requires large-scale mobilization, and political parties and personal networks play a critical role in identifying people willing to serve. The modest compensation for service in election administration serves as an impediment to recruitment, but political parties and candidates have overcome this barrier by providing supplementary payments to their affiliated commissioners. This solution to the problem of recruitment and remuneration comes at a high price to the system's integrity: many commissioners interpret payments as a *quid pro quo* in which their services on the commission are driven at least in part by securing outcomes for their sponsors.

### ***Technical Parties as a Solution to the Problem of Recruitment and Remuneration***

The large-scale demand for commissioners raises several critical questions, one of which is, where do these election officials come from? The previous section noted the central role of parties in resolving this mobilization problem. Parties and candidates have a strong interest in providing affiliated commissioners: maintaining a set of “eyes and ears” on the commissions could mitigate the threat of fraud by opponents. If all competitors treat election administration in this way—they participate to guard against fraud, but not commit it—then elections should proceed in a free and fair manner with appropriate oversight in place. However, Ukraine's institutional solution to the mobilization problem creates strong incentives for nefarious activity by parties.

As noted above, DEC and PEC have extensive powers to influence the conduct of the election, including the validation—or invalidation—of ballots that will be counted to determine the final vote tallies. Organizations with adequate resources can pursue strategies allowing them to “stack the decks” and be overrepresented on commissions. In its most

extreme form, this overrepresentation could give a single contestant de facto control over the activities of the commission. The mechanism that generates the greatest possibility of overrepresentation is the lottery to fill seats on commissions used in parliamentary elections.

## **The Lottery Process**

Before the lottery finalizes the allocation of commission seats in parliamentary elections, initial positions are allocated to parties that are registered as factions in parliament. All remaining positions are open to any candidate or party registered to participate; each DEC runs a lottery for its PECs, producing a nonstandard list of commission representatives across the country. That is, some parties or candidates are represented in certain regions but may not be represented in others.

How do the lotteries work?<sup>20</sup> Each *subject of the electoral process*—candidates and parties registered to appear on the ballot—is permitted to participate in the lotteries held by DEC to populate their PECs. Each subject provides lists of individuals who will serve as their representatives on specific commissions. To receive a representative in a commission, the party or candidate must identify a person who would serve as a commissioner in the elections. Once all of the personnel assignments are finalized for the lottery, the order of assignments is determined by a random draw. Lottery “winners” receive seats on commissions as well as an allocation of officer positions.

Table 6.1 illustrates how the lottery process may produce unusual outcomes using data from PEC representation in the 2012 parliamentary elections. The first five entries on the table are the positions allocated to registered factions in parliament, which are guaranteed representation (Batkivshchyna [Fatherland], Our Ukraine-People’s Self-Defense, Party of Regions, People’s Party, and the Communist Party). These organizations used almost all of their allocations, although they did not fully populate each position that they could have occupied. In part, the failure to take all of the positions could be due to the personnel recruitment challenge. In addition to the seats that they had available as factions, these organizations also entered the lottery as political parties contesting seats. Note that the Communist Party,

for example, had an additional 10,114 representatives on PECs; it won the lottery in DEC seats covering roughly one-third of the PECs in Ukraine.

Because the lottery system is randomized, major political parties that are not currently registered formally in parliament may be excluded from representation on commissions. This was the fate of UDAR and Freedom in the distribution of 2012 DEC seats; while they were expected to be major competitors in the election, they were excluded from DEC representation because they failed to gain access via the lottery. These perverse outcomes are also repeated at the PEC level. UDAR and Freedom, while represented on PECs, had 10,568 and 5,515 representatives each. Contrast this result with the European Party, which had only five affiliated candidates running in single-seat district races, but was seated in 31,514 PECs. How and why do these small political parties participate so extensively in the election administration process when they have such a limited role in nominating candidates?

The allocation of commission positions via lottery incentivizes well-resourced contestants not only to attempt to win lottery seats for themselves, but to encourage and support the participation of ersatz parties — called *technical parties*—that may also win commission positions. Perhaps nowhere in the world have technical parties and candidates proliferated as much as in Ukraine. The terms “technical candidate” and “technical party” have appeared in the lexicon of journalists, election officials, and activists since the early 2000s. Technical competitors have been accused of being disseminators of lies and dirty tricks to damage targeted candidacies (Wilson 2006),<sup>21</sup> of being inauthentic competitors placed on the ballot to steal the votes of inattentive voters,<sup>22</sup> and of being undercover agents introducing bias into election administration decisions.<sup>23</sup> Technical parties and candidates also have been used as “cover” by local elites who do not want to signal affiliation with a national party unpopular in their region. While technical competitors have inserted themselves into the election process in many ways, their most notable activity is disrupting the establishment of the election administration bureaucracy.

The European Party is an example of a technical party in 2012. By supporting a network of technical parties (or technical candidates in the

case of presi-



**Table 6.1. PEC Personnel, 2012 Parliamentary Elections**

	PR Candidates	SSD Candidates	Total Candidates	PECs	Chair	Dept.	Sect.
<b>Factions</b>							
Fatherland Faction	N/A	N/A	N/A	31,644	1,691	1,659	1,618
Our Ukraine–People’s Self-Defense Faction	N/A	N/A	N/A	31,514	1,620	1,606	1,533
Party of Regions Faction	N/A	N/A	N/A	31,506	1,790	1,541	1,573
People’s Party Faction	N/A	N/A	N/A	30,358	1,553	1,532	1,521
Communist Party Faction	N/A	N/A	N/A	30,160	1,544	1,515	1,466
<b>Political Parties</b>							
Communist Party	214	220	434	10,114	487	475	466
Party of Regions	222	204	426	13,034	671	624	656
UDAR	209	183	392	10,568	513	527	527
Fatherland	204	152	356	11,678	545	576	546
Ukraine-Forward!	149	105	254	9,419	438	458	459
Freedom	218	35	253	5,515	254	271	288
Green Planet Party	225	18	243	9,207	396	426	430
Socialist Party	155	58	213	2,513	105	116	118
Our Ukraine	185	25	210	8,841	410	410	422
Radical Party of Oleh Liashko	139	28	167	647	31	33	36
Ukrainian National Assembly	114	5	119	6,912	321	320	323
Native Homeland Party	106	6	112	1,445	60	70	66
New Politics Party	69	26	95	4,689	196	245	230
Party of Greens	78	15	93	1,082	47	51	52
Greens Party	56	18	74	7,483	358	359	366
People’s Party	0	58	58	10,005	475	485	469
Liberal Party	55	3	58	9,629	460	431	468
Ukrainian Future Party	30	17	47	209	8	10	15
Hromada	41	4	45	691	31	33	30
Russian Bloc	34	10	44	7,007	311	343	332
Party of Pensioners	29	6	35	9,964	449	462	475
Ukrainian People’s Party	0	34	34	5,372	247	268	247
Congress of Ukrainian Nationalists	0	25	25	3,424	153	173	168
People’s Labor Union	17	3	20	8,083	372	348	370
People’s Initiative	0	14	14	9,956	475	458	459
Veche Party	0	14	14	9,820	454	454	474
State Party	0	14	14	8,811	410	408	413
United Left and Peasants Party	0	14	14	233	12	15	10
Union. Chornobyl. Ukraine	0	13	13	9,317	438	410	452
Marine Party	0	13	13	7,017	316	322	324
Union Party	0	13	13	5,003	221	226	222
Cathedral Party	0	12	12	1,361	60	61	73
Youth Party	0	9	9	10,132	459	497	471
United Center	0	9	9	2,443	114	118	125



**Table 6.1.—Continued**

	PR Candidates	SSD Candidates	Total Candidates	PECs	Chair	Dept.	Sect.
People's-Democratic Party	0	9	9	731	37	34	33
Patriotic Party	0	8	8	2,838	122	125	115
Solidarity of Women Party	0	7	7	8,385	388	413	400
Just Ukraine Party	0	6	6	9,052	403	418	414
Slavic Party	0	6	6	8,941	428	422	442
European Party	0	5	5	31,514	1,620	1,606	1,533
Ukrainian National Conservative Party	0	5	5	679	34	32	34
Russian Unity Party	0	4	4	6,311	290	286	281
Party of Socialists	0	4	4	5,414	229	234	238
Citizen's Solidarity	0	4	4	5,213	250	226	248
Homeland Party	0	4	4	5,136	222	235	240
Young Ukraine	0	4	4	9	0	1	0
Agrarian Party	0	3	3	8,310	397	402	405
Christian Democratic Party	0	3	3	7,753	358	378	355
United Russia Party	0	3	3	5,767	261	261	270
KMKS Party of Hungar- ians	0	3	3	186	11	7	10
Union of Anarchists	0	2	2	5,078	215	228	240
Small and Medium Business Party	0	2	2	3,481	153	148	161
Ukrainian Party	0	2	2	511	25	24	24
Spiritual Ukraine Party	0	2	2	135	7	7	6
People's Party of Deposi- tors/Social Protection	0	2	2	1	0	0	0
People's Movement	0	1	1	11,075	524	505	525
Civil Position	0	1	1	11,032	504	517	509
Youth to Power	0	1	1	7,218	333	343	346
Brotherhood Party	0	1	1	5,926	262	273	287
People's Ecological Party	0	1	1	5,469	239	256	251
Social Democratic Party (United)	0	1	1	5,399	246	240	243
Cossack Ukrainian Party	0	1	1	5,182	213	233	233
People's Order Party	0	1	1	5,099	209	236	235
Liberal Ukraine	0	1	1	5,052	225	214	212
Free Democratic Party	0	1	1	5,005	220	238	234
Liberal-Democratic Party	0	1	1	4,897	212	203	227
Right Will of Ukraine	0	1	1	4,378	183	196	197
Social Patriotic Assem- bly of Slavs	0	1	1	3,948	152	181	176
Democratic Party of Hungarians	0	1	1	3,874	160	171	173

**Table 6.1.—Continued**

	PR Candidates	SSD Candidates	Total Candidates	PECs	Chair	Dept.	Sect.
Center	0	1	1	2,926	152	133	143
European Platform Party	0	1	1	973	44	44	46
Internet Party	0	1	1	198	10	9	9
Great Ukraine Party	0	1	1	134	7	7	6
Blokov Party	0	1	1	104	7	5	3
For People's Rights Party	0	1	1	89	5	5	4
Reforms and Order	0	0	0	10,896	502	535	517
United Motherland	0	0	0	5,914	254	268	272
Party of Workers	0	0	0	2,617	116	103	131
People's Will Party	0	0	0	227	11	12	12
<b>EMB</b>							
Heads of DEC's	0	0	0	289	31	7	35

*Source:* Data from the Central Electoral Commission of Ukraine.

dential elections), major political parties can enhance their control over commissions. In principle, strong parties may be able to exert majority control over commissions if they are lucky in the lottery and populate it with representatives of their affiliated technical parties. Even if they do not have majority control over the commission's membership, they may be able to obtain effective control by receiving appointments to one or more officer positions.

### **The Proliferation of Technical Parties and Candidates**

The lottery produces the initial assignment of commission positions allocated to all of the subjects of the electoral process. However, the final assignment of individuals to represent parties may change from the initial assignment until election day. Parties are permitted to move personnel, add personnel, or remove personnel from any or all PECs and they actively pursued commissioner replacement in most elections. In some cases, replacement might be necessitated by natural causes; a commissioner may have personal circumstances (e.g., a family medical emergency) that preclude participation on election day. Parties also used this procedure to deploy technical party resources.

Commissioners have noted the disruption caused by personnel replacement. As an election observer for the 2019 parliamentary elections, I directly questioned polling-station officials about how common commissioner replacement was in their PEC and how it affected their work.

Commissioners consistently complained about replacement, in some cases noting that officers had been changed a day or two prior to the election. In the 2014 commissioner survey, 50% of respondents in the pre-election poll and 54% in the postelection poll indicated that the recall or change of PEC workers negatively affected the commission's ability to function. The 2019 study did not ask this specific question, but 5% of respondents volunteered commissioner changes as a problem in response to a different question.

While commissioner changes can disrupt commission activities, they also serve a valuable function in identifying which parties are technical parties and how they are connected to major parties. In previous research (Boyko, Herron, and Sverdan 2014; Boyko and Herron 2015), my colleagues and I took advantage of the personnel transfers among candidates and parties to identify the organizations connected to one another in this relationship. Technical parties are likely to be associated with a "family" of parties that serve related patron organizations. That is, one would not expect to find proregime technical parties to be exchanging personnel on a large scale with opposition parties, or vice versa. Mapping personnel transfers reveals the network of related candidates and parties, unmasking technical parties.

Personnel transfers of this type have been widespread. The scale of transfers varies from election to election, with presidential elections evidencing substantially fewer transfers. Given the absence of the lottery mechanism in presidential elections, this is not surprising. Parties have stronger incentives in parliamentary elections to develop large networks of technical parties to seek access to lottery positions and support their activities. The total number of personnel transfers from one party to another (from the initial assignment until election day) was 4,586 in the 2010 presidential election, 5,690 in the 2014 presidential election, 26,593 in the 2012 parliamentary elections, and 26,156 in the 2014 parliamentary

elections. The absence of a lottery does not eliminate incentives to transfer personnel, but it seems to reduce the magnitude of effect.

How can one distinguish within-network transfers from those outside networks? Stated differently, how can one identify technical affiliates of major candidates and parties? My earlier research emphasized measures of variability to identify outliers—transfers that were substantially higher between particular pairs of competitors. We calculated transfers from one candidate to another (and in the reverse order as well), identified the mean and standard deviation, and assessed pairs that fell above one or two standard deviations from the mean.<sup>24</sup>

This procedure describes the general process to identify technical parties and candidates: gathering data on personnel transfers among parties or candidates, and assessing the level at which clusters of competitors are connected to one another. The purpose of selecting a measure of variability—such as the number of standard deviations beyond the mean—is to distinguish parties that have stronger connections to one another from those who have fleeting connections. Some personnel transfers, for example, may be driven by individuals who choose to disassociate themselves from their initial party and represent another party for nonpartisan reasons: personal disputes, perception of higher supplementary pay, and so on. Lowering the threshold for identifying technical parties could generate “false positives”

Table 6.2 once again uses data from 2012 to illustrate how technical parties are connected to patrons. The table shows party factions in the first column and their affiliated technical parties in the second column. All of the technical parties listed on the table are one standard deviation above the mean in their transfer rates; parties that are bold and underlined are two standard deviations above the mean.

The differences among parties are notable. Our Ukraine-People’s SelfDefense and Fatherland shared many technical parties, as did the Party of Regions and People’s Party. Fatherland, in contrast to the other parties, seems to have relied on a smaller number of parties that transferred more personnel. The Party of Regions and People’s Party relied on a larger network of smaller affiliates.

These behavioral patterns yield different results when the classification threshold is altered; because the Party of Regions and People's Party exchanged relatively large numbers of personnel between each other, these transfers "elevate" the mean to a point where their smaller satellite organizations would not be classified as technical parties if we relied on two standard deviations from the mean. In other words, variation in the size of parties and personnel transfers makes a lower threshold for identifying networks reasonable. In this case, a lower threshold, such as one standard deviation, better encompasses parties that are connected to patrons but have smaller personnel transfers than the patrons have with one or two large parties.

While the 2012 parliamentary elections yielded a large array of small technical parties associated with the major competitors, the 2014 parliamentary elections yielded a different pattern. It is important to note that the networks associated with the Party of Regions were disrupted after the Eu-

**Table 6.2. Party Factions and Primary Affiliated Technical Parties (2012)**

Faction	Primary Affiliated Technical Parties
Our Ukraine–People’s Self Defense	<u>Fatherland (1999)</u> European Party (2006) Reforms and Order (1997) <u>Civil Position (2005)</u> People’s Movement (1993)
Fatherland	<u>Fatherland (1999)</u> <u>European Party (2006)</u> <u>Reforms and Order (1997)</u> <u>Civil Position (2005)</u> <u>People’s Movement (1993)</u>
Communist Party	<u>Communist Party (1993)</u>
People’s Party	Liberal Party (1991) Youth Party (1999) People’s Party (1996) Veche Party (1993) Solidarity of Ukrainian Women (1999) Union Chornobyl Ukraine (2002) <u>Party of Regions (1997)</u> People’s Initiative (2011) People’s–Labor Union (2006) Slavic Party (1993)
Party of Regions	Agrarian Party (2006) Liberal Party (1991) Youth Party (1999) <u>People’s Party (1996)</u> Veche Party (1993) Solidarity of Ukrainian Women (1999) Union Chornobyl Ukraine (2002) Party of Pensioners (1999) State Party (1999) <u>Party of Regions (1997)</u> People’s Initiative (2011) People’s–Labor Union (2006) Russian Unity Party (2008) Slavic Party (1993) Green Planet Party (2005)

Source: Registration information is based on the Ukrainian Ministry of Justice database (<http://rgf.informjust.ua/home/index>). The date in parentheses is the official registration date. The parties listed in the table are one standard deviation beyond the mean for transfers from the major party listed to the technical party listed. Bold and underlined parties are also two standard deviations above the mean.



romaidan protests in 2013-2014 and the abdication of President Yanukovich. While personnel transfers occurred at relatively high levels overall, they involved many of the major competitors rather than small parties. Moreover, while the Party of Regions did not participate on the ballot in 2014, it was officially allocated election administration positions due to its status as a parliamentary faction. The Party of Regions served as a donor of personnel to all of the major parties, and the major parties also transferred personnel with each other. A few parties that we would identify as technical parties (on the ballot to primarily gain commission seats) also participated, notably Spade, Party of Greens, and the Internet Party. The reorientation of the party system in 2014 changed the scale of participation by small parties, but it did not reduce personnel transfers.

In sum, technical parties and candidates have emerged as a way for election administrators to populate commissions and comply with legal requirements for staffing levels. They have also emerged as a way for major political parties to infiltrate the election administration process and achieve higher levels of representation on PECs. Using the lottery system, major parties support small, noncompetitive technical parties who gain representation on commissions. This mechanism facilitates overrepresentation among rank-and-file members and officers. The next section emphasizes how using technical parties as a solution to administrative challenges has undermined the democratic process that elections are designed to support.

### ***Technical Parties as an Impediment to Democratic Election Processes***

#### **The Overreliance of Election Administration on Technical Parties**

Thus far, the discussion of election administration has established that the personnel requirements to staff commissions are extensive and Ukraine's system relies on political parties to mobilize commissioners. The inchoate party system, which features dozens of minor parties along with a handful of major parties, creates more demand for the available positions on commissions than can be accommodated (at least in parliamentary elections). This problem is resolved by the use of a lottery to allocate

positions. However, the lottery process creates incentives for major parties to exploit the system and populate commissions with technical party allies. The relationship between major parties, technical parties, and the administrative system begs the question: should technical parties be banned from participation in election administration?

While technical parties and candidates can be used for sinister purposes, they also have a positive effect by giving parties an incentive to mobilize enough administrators to run election processes. Indeed, Ukraine's election administration has become so reliant on the staffing provided by technical parties and candidates that it struggles when they are absent from elections.

The dependent relationship between election administration and technical competitors was put on full display by the staffing crisis during the 2014 presidential election. In the days and weeks prior to the election, many PECs experienced a widespread deficit of staff and could not comply with the legal requirements to open the polling places. The crisis set off a flurry of activity by the CEC, DEC, and parliament. Election administrators bypassed parties and mobilized poll workers themselves to plug gaps in the system. Parliament altered the rules to permit smaller commissions to manage the elections. By election day, almost 13% of all PEC members were appointed by DEC rather than by parties as a stopgap measure to alleviate the problem. Parliament reduced the number of required commission members because it became clear that even emergency recruitment efforts would fail to fully staff all commissions.<sup>25</sup> Why were commissions unable to mobilize the necessary staff?

While technical candidates participated in the 2014 campaign, some of them did not mobilize commissioners at the level that election administrators anticipated. Four individuals emerged as likely technical candidates associated with major competitors: Oleksandr Klymenko and Vasyl Kuybida were technical candidates for Petro Poroshenko, and Mykola Malomuzh and Zoryan Shkiryak were technical candidates for Yulia Tymoshenko.<sup>26</sup> These technical candidates provided large numbers of PEC representatives: Shkiryak, in fact, nominated more PEC members than any

other candidate. Poroshenko's and Tymoshenko's technical candidates "fulfilled the plan"

However, the absence of a major candidate associated with the Party of Regions removed an important source of technical candidates and commissioners. Four candidates who had been associated with the Party of Regions ran for office—Serhii Tihipko, Mikhail Dobkin, Renat Kuzmin, and Yuri Boyko. Aside from Tihipko, these candidates provided relatively small numbers of PEC commissioners. Whereas Shkiryak, Tymoshenko's technical candidate, provided 31,317 commissioners, Dobkin provided 17,114, Kuzmin 8,555, and Boyko 4,258. The disruption of the Party of Regions networks and the lack of a strong candidate associated with those networks impeded staffing.

The 2014 presidential elections revealed a difficult paradox for democratic election administration: elections had become dependent on organizations whose motives for mobilizing commissioners were not "pure" Have those "impure" motives produced results for the competitive political forces that are associated with technical parties? In other words, does control over commissions via technical parties generate more votes for the patron?

### **Effectiveness of Technical Parties**

The previous section showed how technical parties and candidates emerged to provide opportunities for major election competitors to oversee or influence election outcomes. Further, it showed how they became a critical set of participants in election management. An unanswered question, however, is whether the implicit quid pro quo associated with commissioners appointed by technical competitors affects results. This section describes a mechanism for influence and demonstrates that technical parties and candidates influence outcomes.

Earlier in the chapter, I suggested that technical competitors may "stack the deck" on election commissions to either provide advantages to their patrons or to prevent opponents from cheating. This process could occur because parties develop a functional majority on commissions, permitting them to control votes. Another possible mechanism is through control of the officer corps. Each commission has three officers—chair, deputy chair, and

secretary—who have agenda control powers. Commissions must make a wide range of decisions on the casting, counting, and compilation processes, and the approach to resolving these issues is controlled by the officers. While many decisions require a vote, officers manage the voting process. Is control over the officers, via direct representation and technical representation, associated with variation in outcomes? Put more bluntly, do competitors perform better in PECs where they control the officers?

I have investigated the relationship between control of officer positions by commissioners who are affiliated with the candidate/party and their technical allies in several elections (see Boyko, Herron, and Sverdan 2014; Boyko and Herron 2015; and Herron, Boyko, and Tunberg 2015). The dependent variables in these analyses are the proportion of the vote that the given competitor receives in the polling stations. These analyses control for a variety of additional factors, including commission features (e.g., polling station size and turnout) as well as regional variables. Other control variables vary from election to election.

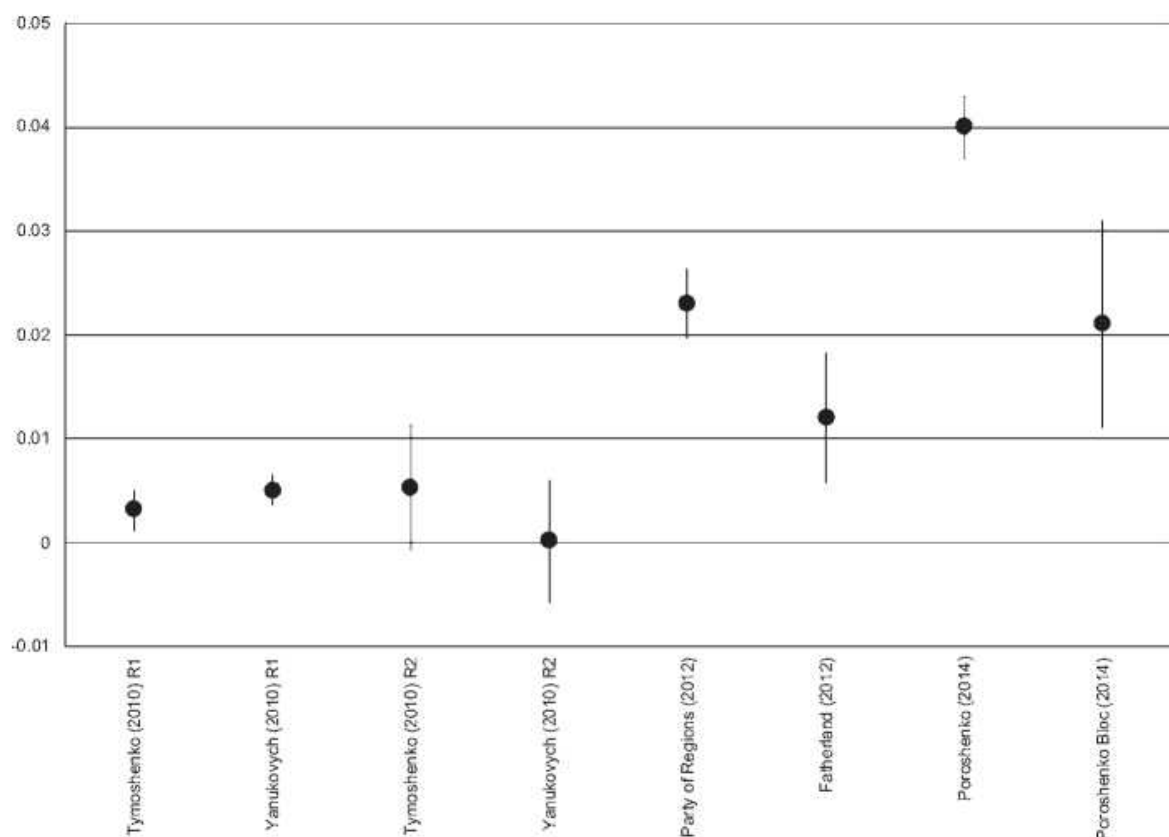


Fig. 6.1. Comparison of Commission Officer Effects, 2010–2014

*Note:* The results displayed on the figure are derived from separate analyses and specifications. All of the models treat the performance of party/candidate  $i$  in polling station  $j$  as the dependent variable (i.e., the proportion of the vote received). The figure reports the difference in average effect of having no affiliated officers and having all affiliated officers.

Figure 6.1 presents the effects of agenda control—having officers affiliated with the given competitor. It includes the two main rivals in 2010, their affiliated parties in 2012, and Poroshenko and his party in 2014.

Because the specific models for each election differ, the comparisons should be interpreted in a circumspect manner.<sup>27</sup> In general, however, the points on the figure represent the average effect of having the commission controlled by the candidate and his or her technical allies compared to the effect of having no allied commissioners serving in officer positions. Given these caveats, the results in figure 6.1 suggest that the effects of officer control—including officers associated with technical competitors—is non-zero in most elections. The “bonus” that a competitor received for control of officers was around 1% to 3% in the 2012 and 2014 parliamentary

elections, with Poroshenko receiving a slightly higher “bonus” in the 2014 presidential election.

The bottom line is that controlling officers is associated with better returns, albeit at a small scale.

A notable observation is that the effects of controlling officers in the 2010 presidential election are less significant both statistically and substantively than in later elections. The bonus associated with officer control in the first round of the 2010 presidential election is small—less than 1%. In the second round, I only accounted for control of the chair; officer control was balanced on every PEC, with the opposite candidate nominating the chair and secretary so neither candidate could fully control the officer corps, at least formally. As the figure shows, the effects are indistinguishable from zero. Why might this be the case?

The 2010 presidential election featured the most balanced election commissions in Ukraine’s history, prior to the second round of the 2019 elections, with second-round commissions designed to equally represent both campaigns. In a departure from previous elections, technical candidates did not retain their positions on commissions in the second round. The commissions were reconstituted with equal representation for Yanukovych and Tymoshenko. Moreover, officer positions were reduced to two (chair and secretary), and alternated between the two campaigns. By engineering commissions to balance overall representation, and also balancing the officer positions by allocating the chair and secretary to opposing campaigns, Ukraine’s election administration may have mitigated the effects that technical parties and candidates have shown in other elections. Instead of seeking ways to provide advantages to their preferred candidates, the commissioners may have been more focused on watching each other to ensure that the process was fair. The experience of balanced commissions, and the elimination of technical competitors from administration, points to potential solutions for this paradox.

## **Conclusion**

This chapter has described how the election management system functions in Ukraine and how it has generated an unhealthy symbiosis between

election administration and parties. It serves as another crucial example of the normalization of corrupt behavior in Ukrainian institutions.

As the chapter noted, conducting elections requires hundreds of thousands of people to work in election commissions. Political parties are the main organizations that mobilize commissioners. Access to commissions provides benefits to parties by allowing them to exert oversight and prevent fraud. However, the system's demands and the methods of allocating commission seats (notably the lottery) have created perverse incentives: major parties and candidates serve as patrons to minor participants whose primary purpose is to guide decisions on commissions in favor of their patrons.

These *technical candidates and parties* have become essential participants in the system. When competitors fail to mobilize personnel, the election process falls into crisis, as occurred in the 2014 presidential elections. At the same time, when patrons use technical competitors to mobilize personnel, they may engage in an implicit quid pro quo with their affiliated commissioners to bias results in their favor. The effort to resolve a mobilization challenge has produced a perverse outcome: to conduct free and fair democratic elections, election administrators have invited actors who potentially have corrupt intentions to play a crucial role. They have become essential to the system, creating space for corruption to be normalized.

While the chapter has revealed a paradox in Ukraine's election management system, the analysis also suggests some possible ways to resolve the problem. The first round of the contentious 2010 presidential election showed small-scale effects of commission control. However, the second round showed no substantive effects on the results. Why? Commissions were evenly split in the second round, with a balance of forces for Tymosh-enko and Yanukovych on the commissions and in the officer corps. Neither side could effectively maneuver commissioners to gain de facto control over commissions in a widespread, systematic, or decisive manner. While some evidence of small-scale fraud was reported, the election was generally considered to be conducted credibly (Herron 2011a).

Developing mechanisms to reduce the participation of technical competitors while encouraging parties and candidates to mobilize commissioners could address the underlying challenge of normalized corruption in election administration. Raising barriers to entry for parties so that noncompetitive organizations cannot receive commission seats and managing commission sizes to ensure equal representation could mitigate the negative effects that technical parties currently exert without undermining their positive role in staff recruitment. I discuss these remedies in more detail in chapter 8.



## 7 Wealth and Accountability

The insidious influence of corruption on the effectiveness of accountability has been at the center of this book. The consequences of corruption have largely focused on power—who wields it and who benefits from it. Improper election practices, discussed in chapter 3, may put unworthy individuals in positions of authority and undermine vertical accountability. Weak tools of horizontal accountability, discussed in chapter 4, may serve a symbolic role but not result in meaningful leverage over misdeeds by public officials. Public attention to corruption has produced important outcomes, especially when it has mustered large-scale mobilization. But media and NGO whistle-blowing on corrupt activities has not succeeded fully in mitigating corrupt behaviors, as the stories of proxy voting and technical parties illustrate in chapters 5 and 6. All of these pieces of the narrative have touched on a critical element of corruption that the book has not addressed directly yet: the role of money.

The definitions of corruption that I discussed in chapter 2 revolve around financial resources; they are the method by which public office is used for “private gain” Ukraine has a long history of opacity in the finances of public servants. Communist Party officials in the Soviet period gained access to foreign currency—*valyuta*—that they could spend in official stores that were off limits to most citizens. Their hidden access to wealth masked class divisions that critics of communism had long warned about (Djilas 1957). Over time, postcommunist oligarchs and politicians increasingly flaunted their illicit wealth, with the ostentatious decorations at Viktor Yanukovych’s Mezhyhiria estate serving as an egregious example.

The post-Euromaidan reckoning resulted in a new process to reveal the wealth accumulated by public officials. In late October 2016, tens of thousands of Ukrainian politicians, from then-president Petro Poroshenko to low-level regional officials, disclosed the riches they and their families had personally accumulated during their careers. Ukrainian anticorruption legislation required officials to file electronic declarations (“e-declarations”) disclosing their personal and family financial and property holdings.

The dissemination of information about official wealth was a direct result of efforts to enhance transparency and undermine illicit behavior in a country rated as one of the most corrupt in the world.<sup>1</sup> E-declarations were established to introduce accountability by requiring officials to publicly report their resources, potentially revealing suspicious circumstances that law enforcement could investigate. Even if officials unintentionally understated their level of wealth, or intentionally falsified statements, the e-declaration data provide us insights by allowing us to assess ***disclosed wealth***.

Public reactions to the revelations about official wealth varied, from anger and surprise to cynicism about the accuracy of the reporting. Subsequent legal action<sup>2</sup> pursued against alleged false reporting and omissions in the documentation suggests that some of the cynicism about the declarations is warranted. The e-declarations, however, also present an opportunity to assess official reports on the distribution of wealth among elected and appointed officials, providing valuable insights into the development of accountability practices in Ukraine. This chapter focuses on an analysis of the initial e-declarations.

The e-declarations process raises important issues about public officials and their behavior, and about how the wealth of public servants is distributed by gender, position, and region. The data used in this chapter's analysis includes 107,743 declarations filed by public officials, from the president down to local bureaucrats. The e-declarations include self-reports of liquid assets (bank accounts and cash), structures (houses, apartments, rooms, offices, dachas, and garages), and property (land). While the analysis cannot distinguish public officials for whom wealth is "ill-gotten" from those who have legitimately earned it, it demonstrates how money and property are linked to public service, complicating efforts to enhance accountability.

The chapter proceeds in four parts. The first section outlines the context in which e-declarations were instituted: a social environment in which officials had a history of misreporting wealth, rent-seeking behavior by government officials was common, and citizens expressed low confidence in the capacity of state institutions to rectify the problem. The second

section provides further context by discussing economic conditions in Ukraine, differentiating the general population from government-sector employees. The third section presents the data and analysis, focusing on several questions: how wealth is reported and distributed by gender, by position, and by region. The fourth section concludes the chapter with a commentary on the efficacy of accountability tools in Ukraine, anticipating the recommendations of the book's final chapter.

## **Political and Social Context of E-Declarations**

As Ukraine separated from the Soviet Union, it pursued new economic policies that permitted a market economy to develop.<sup>3</sup> The process of economic transition is challenging and includes several components: establishing private ownership of the means of production, creating an environment for economic competition to develop, instituting a sound currency, incentivizing an appropriate level of voluntary savings, modernizing infrastructure, and ensuring the maintenance of an adequate social safety net. To accomplish all of these tasks in a fair and efficient manner, the rule of law is needed.

Ukraine's economic transformation was imperfect and incomplete. Many of the oligarchic interests that I discussed in chapter 4 were able to take advantage of this period of uncertainty to amass wealth, later using it to leverage more wealth and power during privatization, when state-owned enterprises were transformed into privately held companies. The conversion of public-sector resources into private-sector wealth was not limited to privatization; rent-seeking government officials were also able to generate revenue through the procurement process, graft in construction, illicit arrangements in international trade and customs, and other means.

Money has been inserted into the governance process in many ways. Political machines have used access to finances to buy votes (Birch 1997), state officials have extracted illicit side payments in many domains (Osipian 2008; Round, Williams, and Rodgers 2008), and in some cases, access to public office has been influenced by bribery (Engvall 2015). Aslund (2005) notes that wealth, especially in Ukraine, has given oligarchs the ability to influence elections, secure preferred legislation, and engineer favorable bureaucratic or legal decisions.

Associated with the accumulation of resources through improper means is a lack of formal and informal traditions of open, transparent disclosure of financial data. Misreporting economic production was traditional in the Soviet Union. Officials in productive enterprises might underreport performance to avoid the ratchet effect, while those in less-successful enterprises might falsify wage reports, overreport actual output to receive bonuses, provide side payments to skilled workers, and perform other machinations to successfully navigate the system (Campbell 1991). In the post-Soviet era, efforts to hide wealth have become globalized and include the creation of shell corporations, use of offshore accounts, and a continuation of underreporting to avoid taxes (Ledeneva 2006). Illicit behaviors from the Soviet era have persisted in modified forms, and new types of fraud have emerged. For example, Ukrainian officials and oligarchs were featured in revelations about improper offshore money transfers, uncovered by investigative journalists and reported in the Panama Papers and Paradise Papers.<sup>4</sup>

The Euromaidan “Revolution of Dignity” much like the Orange Revolution before it, was accompanied by expectations that new leadership would act to limit corruption.<sup>5</sup> As I noted in chapter 4, the development of anticorruption units dedicated to rooting out high-level corruption was a direct result of post-Euromaidan reforms. While it is too early to fully assess the effectiveness of these bodies, Ukrainian citizens were not impressed with their early efforts. Only 7% expressed trust in the National Anti-Corruption Bureau and 6% expressed trust in the Committee on the Prevention of Corruption in a post-Euromaidan poll (KIIS 2015).

What characterizes the Ukrainian public’s attitudes about public corruption following the Euromaidan protests? In its September 2015 survey,<sup>6</sup> IFES notes that 60% of respondents felt that reducing corruption was an important goal of the Euromaidan revolution, but that only 7% reported improvements. In addition, 53% of respondents in the survey identified corruption as one of the most serious issues facing Ukraine, up from 28% in September 2014. Ukrainians reported a wide range of corrupt actions in daily life, from paying a bribe or other improper cost to see a doctor (32%), to process official documents (9%), or to assuage challenges by law enforcement officers (5%) or court officials (4%). In sum, 40% of

respondents reported that they were required to make some kind of illicit payment to public officials or in their work environment.<sup>7</sup>

While it did not ask the same questions, a 2015 survey report from the Kyiv International Institute of Sociology leaves a similar impression (KIIS 2015). Over 70% of respondents indicated that they had experienced some form of corruption, and few indicated that they trusted institutional actors to fight corruption (14%). Respondents indicated that among government institutions, the national parliament (61%) is considered the most corrupt, followed by the Cabinet of Ministers (55%) and the presidential administration (46%), with local government considered to be less corrupt than national actors (34%).<sup>8</sup> Not surprisingly, the relative level of trust in these institutions correlates with attitudes about corruption: 18% of respondents reported that they trusted city/village government; 10% trusted the president, 6% trusted the Cabinet, and 5% trusted parliament.

A majority of respondents expressed a “great deal” or “fair amount” of confidence in a few categories of public officials or institutions, with the military (74%), media (63%), and new patrol police (52%) leading the way. Other officials received less robust support, including mayors (47%), city and village councils (47%), the Central Electoral Commission (32%), Raion administrators (30%), Oblast governors (27%), the Cabinet of Ministers (19%), and parliament (19%).<sup>9</sup> In this environment, the 2019 presidential and parliamentary elections, in which Volodymyr Zelenskyy and his party won convincingly on a platform of anticorruption and altering “business as usual,” are less surprising than they initially seemed.

At the personal level, respondents reported that state officials attempted to extort them in housing, social assistance, loans from state institutions, property management, and interactions with the judicial system. While unsolicited bribery is reported to have decreased, many respondents still identified it as a problem in higher education, health care, auto inspections, and access to other state services.

Taken together, the concerns about corruption and low levels of confidence in public officials and institutions generates an environment ripe for reforms such as official filings of financial wealth by public officials. At the same

time, the low levels of confidence in public officials renders these revelations fraught. That is, the public is likely to react negatively to wealth — especially because citizens do not trust officials—or to suspect that reports are falsified. The extensive history of inaccurate financial reporting, coupled with political and economic actors taking advantage of their positions to extract rent, demonstrates a clear need for an institutional solution to the issue of money in politics.

## **Wealth and Government Appointments**

Ukrainian citizens have long expressed skepticism about their political institutions and have long experienced corruption in their day-to-day interactions with state actors. Corruption often takes the form of improper side payments demanded by state agents or implicitly expected by state agents as an inducement to do their jobs. As I described in chapter 6, precinct election commissioners received illicit side payments from parties to serve as poll workers and indicated that this revenue was important to their participation.

In this environment, government-sector employment may include additional revenue sources that render positions even more lucrative through illicit means. The establishment of e-declarations was designed to—at a minimum—provide a degree of transparency about the level of wealth among state-sector employees. Because all of the wealth may not be ill-gotten, the differences between many public-sector employees and the general population are notable, as this section illustrates.

How do Ukrainians who work in public-sector positions differ from compatriots in other fields? It is challenging to make a direct comparison, because the data covering the whole population emphasize monthly wages, gross domestic product per capita, purchasing-power parity measures, or similar estimates of income or economic productivity. The e-declarations, by contrast, measure **wealth**. While wealth is an accumulation of earnings, savings, investments, and other asset accrual over time, the measures are not fully equivalent.

In general terms, Ukraine's population is relatively poor. Ukraine's GDP per capita in 2017 was \$2,640, situating it below Kosovo, Albania,

Serbia, Bulgaria, and most European countries.<sup>10</sup> If we investigate wages in Ukraine, we find that the average monthly wage at the time the e-declaration data were collected (October 2016) was 5,350 Ukrainian hryvnia (UAH).<sup>11</sup> By contrast, the mean value of cash assets (bank and in-hand) among government officials in the e-declaration data was 157,415 UAH with zero values included, 958,243 UAH with zero values excluded.<sup>12</sup>

Even though e-declaration data represent accumulated wealth rather than the monthly wage, the implications of the discrepancies are clear. If the average Ukrainian citizen had no cost of living (i.e., saved all of their monthly wages) and the monthly wage did not vary over time (it stayed constant at the October 2016 level), it would take two-and-a-half years to reach the average wealth reported by public officials in the overall data and fifteen years with zero values excluded. While these are rough measures of the personal financial status of Ukrainian citizens, the apparent discrepancies between the personal financial resources available to government officials and regular citizens generate a need for additional accountability. Concerns about these discrepancies are bolstered by public opinion data in which citizens report regular interactions with government officials requiring illicit side payments, potentially explaining at least one source of wealth accumulation.

## **Analysis of E-Declarations**

### ***Data and Expectations***

The legal basis for the requirement to file e-declarations is contained in the Law on the Prevention of Corruption.<sup>13</sup> The law covers a wide range of public officials, from the president, cabinet ministers, and members of parliament through local elected officials, judges, and members of the military and law enforcement. Ukraine's National Agency on Corruption Prevention issued additional instructions and clarifications for the submission of reports,<sup>14</sup> and publicly disseminated information about public officials' wealth.

The Ukrainian National Agency on Corruption Prevention<sup>15</sup> published e-declarations in an online database.<sup>16</sup> The data in this chapter include

declarations filed prior to the initial deadline of October 30, 2016, and cover several categories of assets, including liquid assets (e.g., cash and bank holdings), living spaces and other structures (e.g., houses, garages, apartments, rooms, dachas, and offices), and real estate properties (i.e., land holdings). The data are divided into items declared by the individual filing the declaration and items claimed by family members. Bank and cash holdings include accounts held in a large number of banks and currencies.<sup>17</sup> Further, property and real estate assets are identified by those held in Ukraine and those outside of Ukraine,<sup>18</sup> with the location of assets specified by country.

The data set includes 107,743 individual entries. Each official is identified by name and a professional description. These summaries vary in the manner in which officials described their positions. For example, some local government officials provided the name of their region (i.e., raion) along with the higher-level unit (i.e., oblast). However, in many cases, local officials did not include the higher-level unit designation. To distinguish officials who worked for the national government and those working in local positions, data were coded based on the information provided.

Before stating expectations for the analysis, it is important to address the potential problem of endogeneity in the wealth data. While reports of accumulated wealth could reflect revenue extracted in a particular government position, say by a member of parliament or a local judge to secure a favor for a constituent, they could also be a product of the process to obtain those positions. Some of Ukraine's most prominent oligarchs have sought positions at the national level; the most recent former president is an oligarch, and other oligarchs have served as members of parliament. Locally prominent businesspeople have also sought elective office to influence the legal and regulatory environment and seek immunity from prosecution (Herron and Sjoberg 2016). The costs of seeking national offices, as well as the rewards, are of greater magnitude than those associated with local offices. In other words, wealthier people may have access to a wider range of opportunities to serve in public office; wealth acquisition may precede public service. In the analysis of e-declaration data, I will strive to be circumspect in assessing findings.



The personal and professional information in the data set allow me to address several important questions about the distribution of wealth among government officials. ***Have individuals in national-level office accumulated more wealth than local-level officials?*** Citizen perceptions of corruption vilify national officials more often than local officials, and national officials may have access to larger side payoffs, given the importance of their positions. As I noted above, however, the effort to seek some national offices may also favor individuals who have access to wealth (such as elected offices). If the analysis reveals an association between national office and greater wealth, it will establish that both mechanisms, or some combination of the two, are plausible.

***Do officials in certain government sectors report higher levels of wealth?*** Once again, given citizen perceptions of corruption as well as international reports, one would expect the parliament, cabinet, and presidential administrations to lead in wealth reporting. Those in other positions that provide an opportunity for wealth extraction, such as judges, prosecutors, and financial or tax services, should also report higher wealth than those in positions such as the military, who have more limited access to revenue extraction.

***Do male officeholders report higher levels of wealth than female officeholders?*** Despite Soviet-era proclamations about gender equality, women in most post-Soviet states have faced more barriers than their male counterparts in seeking access to professional positions (Reuschmeyer and Wol-chik 2009).<sup>19</sup> Some research has also found that higher levels of parliamentary representation of women leads to less corruption (Dollar, Fishman, and Gatti 2001). Other research suggests that gender does not determine the likelihood of corruption; women may be equally ready to engage in illicit behaviors (Schulze and Frank 2003<sup>20</sup>; Sung 2003; Armantier and Boly 2011).

***Do officeholders in certain regions of Ukraine report higher levels of wealth?*** While location may be collinear with occupying a national or local office (with most national officeholders being located in Kyiv), do local officeholders in certain regions of Ukraine report more wealth than in other regions? Observers of Ukraine's politics often note that Eastern and

Southern oblasts have historically been associated with wealthy oligarchs and political machines. If e-declarations data support this narrative, reported wealth should be higher in several regions, such as Donetsk, Luhansk, Kharkiv, Dnipropetrovsk, and Odesa, along with Zakarpattia, which has been a stronghold for oligarch Viktor Medvedchuk (Matsuzato 2002).

The analysis in the following section will explore these four questions, differentiating liquid assets from real estate holdings. In addition, the discussion will address the potential shortcomings of the data for making inferences about the true sources of personal assets.

### ***Data Analysis***

Table 7.1 describes the e-declaration data. This table includes the mean, standard deviation, and number of observations for several critical variables among all e-declarations, even those that report zero assets. Liquid assets are derived from reported bank and cash holdings of Ukrainian hryvnia, euros, and US dollars. It is notable that most of the respondents did not report any bank or cash holdings; 81% of reports include no liquid assets. Far fewer e-declarations identify no property; 15% of reports include no property ownership.<sup>21</sup>

Among all of the e-declarations, 47.3% identified as men and 52.7% identified as women.<sup>22</sup> The overall mean value of liquid assets was higher for men than for women, but reported property size was larger for women than for men. Local officials (72%) make up a larger proportion of the reports than national-level officials (28%); local officials report larger property assets while national officials report more liquid assets. At the national level, Rada deputies (423 reports) have more liquid and property assets than those in other positions, surpassing ministerial and presidential staffs. Kyiv residents report less cash, but more property. This observation could be influenced by national and local officials in the Kyiv region being combined in this calculation.

The property data also reveal a potentially important feature of the e-declarations data reports: potentially unintentional errors. One property

entry, for Olena Sobko, reports a land holding of a size that can only be plausibly interpreted as an error. She has large agricultural holdings, but reported one piece of property as 252,700,252,700 square meters in size. This area is roughly equivalent 62 million acres, or the total size of all land dedicated to wheat production in the United States. Instead, the most likely explanation for the entry is that it is accidentally duplicated and is instead 252,700 m<sup>2</sup> (or 62 acres). While this error is glaring, it is also relatively straightforward to identify because the reported property holding size is not realistic. Other data entry errors may exist in the data undetected. For example, some liquid asset entries also appear to be duplicates, entered twice into the e-declaration forms (see, for example, the entries for Yurii Boyko on Table 7.5 below). These potential errors could be due to overly

**Table 7.1. Descriptive Statistics on Total Assets**

	Mean	Std. Dev.	# of Observations
<b>Liquid Assets (UAH)</b>			
Gender (Women)	81,548	1,296,111	56,822
Gender (Men)	374,825	6,618,037	50,921
Local	112,865	1,808,610	77,232
National	491,737	8,241,304	30,511
Rada	22,200,000	58,900,000	423
Ministry	425,725	2,273,256	1,864
Presidential Administration	2,749,562	37,500,000	321
Kyiv	157,638	985,777	11,102
Non-Kyiv	228,110	4,909,115	96,148
No Assets Reported	0	0	86,848
Assets Reported	1,135,210	10,500,000	20,895
<b>Property (M<sup>2</sup>)</b>			
Gender (Women)	50,942	4,885,214	56,822
Gender (Men)	31,009	3,972,575	50,921
Local	46,481	5,235,788	77,232
National	28,968	1,179,854	30,511
Rada	50,891	328,362	423
Ministry	3,374	12,529	1,864
Presidential Administration	3,592	14,896	321
Kyiv	148,116	10,300,000	11,102
Non-Kyiv	29,409	3,182,572	96,148
No Assets Reported	0	0	16,525
Assets Reported	49,043	4,865,755	91,218

diligent respondents who hope to protect themselves from potential claims of misrepresentation, respondents who misunderstood instructions, or some other cause. While the e-declarations data are a valuable source for understanding wealth among public officials, the potential for error underscores the need to carefully interpret the findings.

Descriptive data have established that some of the expectations identified above appear to be reflected in the e-declarations reports. I also conducted several multivariate analyses to evaluate the association between key variables and reported liquid and property assets. The analysis requires some important caveats. Many respondents did not report cash holdings; in fact, only 20,495 reports provide data. Property holdings were

far less likely to yield zeroes; 91,218 respondents reported property of greater than zero square meters. The analysis below includes respondents with non-zero outcomes.<sup>23</sup>

### ***Liquid Assets***

Table 7.2 shows the results of a multivariate analysis on liquid assets reported by government officials using the average conversion rates to hryvnia during October 2016. The table includes three versions of the dependent variable. The first includes the reports filed in the name of the individual; the second includes the reports filed in the name of the family; the third combines the two. Liquid assets include all hryvnia (UAH), euro, and US dollar (USD) reports of bank and cash assets. While this calculation excludes some additional currencies and other forms of asset reporting (e.g., loans to third parties), these reports encompass the main report categories for liquid assets.

The independent variables in table 7.2 include gender and position. The comparison category for position is local government; the coefficients show the relative wealth of national-level officials holding the offices specified compared to local officeholders. Consistent with expectations, most of the national-level officeholders report higher levels of wealth, on average, than local officeholders. Members of the Central Electoral Commission and staff (CEC), military, and other national offices (family holdings only) do not consistently report higher levels of cash assets, demonstrated by coefficients that are not statistically significant. Individual reports are significant at the .10 level, suggesting that these officeholders may be wealthier than local officials, but when family or total assets are considered, the reports are not statistically significant. These findings suggest that national-level officeholders have accumulated more wealth than local-level officeholders.

Based on the reported coefficients, certain officials, on average, report higher levels of liquid assets than others. The levels of wealth track closely with public opinion about relative levels of corruption nationally. Members of the Verkhovna Rada report the highest levels of liquid assets, followed by presidential administration members, ministries and the

judiciary, prosecutors, and the State Fiscal Service (DFS). Lastly, female respondents are more likely to report lower levels of wealth than their male counterparts, a finding that is consistent across individual, family, and combined accounts.

Table 7.3 focuses on variation among local officeholders, emphasizing regional variation. Consistent with the findings at the national level, certain offices are associated with higher levels of wealth. At the local level, the judiciary, prosecutor's office, and State Fiscal Service officials report more assets than other officials. Reports by military officials are inconsistent, with

**Table 7.2. Multivariate Analysis of Financial Assets**

	Individual	Family	Combined
Gender (Female)	-55,963*** 2,438	-32,408*** 4,031	-67,008*** 3,006
Rada MP	151,793*** 8,371	2,181,957*** 12,327	5,183,159*** 10,962
Ministry	86,078*** 6,792	84,405*** 11,630	109,516*** 8,572
Presidential Administration	116,751*** 14,904	90,324*** 25,844	110,683*** 19,134
CEC	54,608* 30,842	81,545 52,305	59,345 37,423
DFS	25,923*** 4,417	47,910*** 6,674	55,281*** 5,339
Prosecutor	50,214*** 3,706	41,031*** 6,112	60,893*** 4,563
Military	18,586* 10,488	4,534 19,742	18,266 13,396
Judiciary	88,216*** 3,572	57,950*** 6,069	110,655*** 4,501
Other National	23,410*** 3,348	9,710* 5,603	20,989*** 4,133
Constant	137,365*** 2,312	154,371*** 3,804	181,198*** 2,844
Observations	17,703	9,360	20,894
F	162.43***	3,307.89***	23,282.76***

Note: \*\*\*  $p < 0.01$ , \*\*  $p < 0.05$ , \*  $p < 0.1$ . Standard errors displayed below coefficients.

**Table 7.3. Multivariate Analysis of Financial Assets, Local Officials**

	Individual	Family	Total
Gender (Female)	-45,969***	-23,922***	-56,449***
	2,627	4,503	3,319
DFS	21,197***	42,017***	47,323***
	4,078	6,393	5,057
Prosecutor	42,819***	33,536***	52,089***
	3,727	6,368	4,699
Military	-31,015*	63,972*	-41,074*
	16,887	34,158	22,178
Judiciary	79,447***	43,749***	98,172***
	3,373	6,055	4,382
Vinnyska	-26,781***	-42,544***	-29,438***
	6,920	11,558	8,753
Volynska	-59,885***	-51,015***	-81,617***
	7,927	13,679	10,089
Dnipropetrovska	-41,221***	-58,450***	-64,851***
	7,266	12,189	9,010
Donetska	118.1	-21,375	-12,066
	6,989	13,409	9,016
Zhytomyrska	-22,553***	-37,872**	-36,836***
	8,583	15,372	10,971
Zakarpatska	-19,522**	-11,245	7,090
	9,002	13,761	11,158
Zaporizka	-37,083***	-51,018***	-56,793***
	7,293	12,818	9,180
Ivano-Frankivska	-44,252***	-69,853***	-64,682***
	8,484	13,804	10,610
Kirovohradska	-40,953***	-65,102***	-68,611***
	8,665	15,955	11,227
Luhanskska	-8,606	-28,967*	-32,539***
	8,115	14,861	10,384
L'vivska	-7,727	-13,050	-10,856
	5,725	8,976	7,172
Mykolaivska	-41,030***	-90,179***	-70,400***
	8,453	15,622	10,867
Odeska	5,173	847.3	8,035
	6,422	11,106	8,198
Poltavska	-28,602***	-69,730***	-49,638***
	7,461	13,822	9,711
Rivnenska	-38,832***	-71,560***	-63,227***
	7,993	13,521	10,076
Sumska	-49,129***	-39,855***	-68,766***
	8,779	14,953	10,902
Ternopil'ska	-46,473***	-61,438***	-59,975***
	7,781	12,463	9,810
Kharkivska	-10,304*	-8,406	-19,492***
	5,346	9,335	6,842
Khersonska	-50,773***	-55,254***	-75,958***
	10,625	18,974	13,262

**Table 7.3.—Continued**

	Individual	Family	Total
Khmelnytska	–61,638*** 7,395	–83,923*** 13,064	–93,636*** 9,433
Cherkaska	–36,306*** 8,502	–64,361*** 14,286	–51,291*** 10,652
Chernivetska	–20,375** 9,273	–49,303*** 14,620	–26,596** 11,480
Chernihivska	–48,555*** 8,128	–59,891*** 14,828	–67,092*** 10,351
Constant	152,075*** 3,225	185,059*** 5,512	207,880*** 4,110
Observations	11,923	6,405	14,248
F	46.8***	11.78***	48.17***

Note: \*\*\*  $p < 0.01$ , \*\*  $p < 0.05$ , \*  $p < 0.1$ . Standard errors displayed below coefficients.

variation in individual and family reports. However, the military reports are significant only at the .10 level and are more typically associated with lower reports of wealth than other officials, consistent with national-level findings. It is not surprising that among the officials who could be differentiated by type of office, military professionals fare worse than other public officials in terms of their financial and property wealth.

The comparison category for regions is Kyiv city and oblast. Some regions report mean asset values that are not statistically different from those of the capital region, including Donetsk, Lviv, and Odesa. In some regions, the statistical significance of reports varies, with some reporting differences from Kyiv and others reporting that the values cannot be distinguished from one another. These regions include Zakarpattia, Luhansk, and Kharkiv. Other regions report lower levels of wealth than the capital region. The regions that are statistically indistinguishable from the capital are notable because most have been associated claims of oligarchic power and corruption.

In sum, e-declaration reports of liquid assets suggest that national-level officials report greater wealth than local-level officials, although



finances vary by position. Male officials have higher levels of wealth than women at the national and local levels. Among local-level appointments, officials in certain regions report higher levels of wealth than others, and these observations match many of the areas of the country where allegations of corruption have been historically elevated.

### *Property Assets*

Table 7.4 replicates the analysis from Table 7.2 and 7.3 using property data. Total property reflects square meters of all property holdings reported by the individual or family, domestic or international, and includes houses, apartments, rooms, garages, dachas, offices, and other land holdings. While the size of property holdings may not reflect their value, property size is a rough estimator of real estate investments. In this table, I use total property data rather than separating individuals and families.

**Table 7.4. Multivariate Analysis of Property Assets**

	Property Size (All)	Property Size (Local)
Gender (Female)	-15.25*** 3.232	-1.519 2.883
Rada MP	276.7*** 23.65	
Ministry	52.11*** 12.06	
Presidential Administration	0.18 28.52	
CEC	307.2*** 58.23	
DFS	30.70*** 5.897	34.20*** 4.535
Prosecutor	-2.402 5.252	5.754 4.325
Military	-50.93** 19.92	-65.96** 25.67
Judiciary	153.4*** 6.273	125.4*** 4.992
Other National	52.91*** 4.055	
Vinnyska		110.0*** 7.909
Volynska		155.5*** 9.453
Dnipropetrovska		-27.10*** 7.385
Donetska		-18.42** 7.213
Zhytomyrska		57.19*** 8.565
Zakarpatska		226.9*** 9.237
Zaporizka		3.921 7.456

**Table 7.4.—Continued**

	Property Size (All)	Property Size (Local)
Ivano-Frankivska		68.72*** 9.598
Kirovohradska		12.91 8.904
Luhanska		16.67** 8.274
Lvivska		79.74*** 7.354
Mykolaivska		29.72*** 8.323
Odeska		36.37*** 7.209
Poltavska		9.304 8.005
Rivnenska		132.4*** 9.046
Sumska		22.96** 9.009
Ternopil'ska		104.9*** 9.709
Kharkivska		-12.65** 6.4
Khersonska		40.53*** 8.89
Khmeln'ytska		53.77*** 8.657
Cherkaska		6.713 8.86
Chernivetska		88.54*** 10.44
Chernihivska		67.69*** 8.748
Constant	244.2*** 2.964	158.8*** 3.846
Observations	91,218	64,597
F	88.81***	76.74***

Note: \*\*\*  $p < 0.01$ , \*\*  $p < 0.05$ , \*  $p < 0.1$ . Standard errors displayed below coefficients.

The findings using property assets are largely consistent with the observations from liquid assets. National officials generally report higher levels of property than local officials. Property varies by position: members of the CEC report the largest holdings, followed by the Rada, judiciary, ministries, and State Fiscal Service. The military reports lower property size than local officials (the comparison category). Women also report lower levels of property than men.<sup>24</sup>

If we investigate regional variation, similar to table 7.3, we find some important differences. While certain local offices report larger property holdings than others (e.g., judiciary) and the military reports smaller property holdings, women are not statistically different from men in their property reports. Regional effects also vary from liquid asset reports, with many regions reporting smaller property sizes than the control group (Kyiv) and others reporting larger holdings. It is notable that the largest property sizes are in more rural areas such as Vinnytsia, Volyn, Zakarpattia, and Rivne.

The previous two sections have established that national-level politicians consistently report more wealth than local-level politicians in liquid and financial assets. Certain offices and regions tend to be associated with more resources, and men tend to have more resources than women (with some exceptions). The next section investigates reported wealth for the most elite politicians in Ukraine.

### ***Prominent Politicians***

The most prominent politicians in Ukraine, not surprisingly, report high levels of wealth, property, or both. Table 7.5 summarizes reports filed by leading politicians in 2016: President Petro Poroshenko, Prime Minister Volodymyr Groysman, and leaders of other party organizations from different parts of the political spectrum: Yuliia Tymoshenko, Oleh Liashko, and Yurii Boyko. All of these e-declarations include large amounts of liquid and property assets associated with the individual and family. In some cases, as with President Poroshenko's report, the bulk of assets are

registered with the filer of the documentation. In other cases, such as Tymoshenko, more assets are reported as family resources.

President Poroshenko's wealth comes from his position as a large business owner: he is the "chocolate king" of Ukraine due to his ownership of the Roshen candy company, and he holds other important assets, such as a major television outlet. While Poroshenko's status as an oligarch was no secret, some of his assets were not publicly disclosed until the e-declarations were published. Most notably, Poroshenko owns a home in Spain indirectly through one of his companies. This asset is not listed on his e-declaration, ostensibly because he does not directly own it. The explanation for its omission has raised questions about how well e-declarations will function as an accountability tool.<sup>25</sup>

The fact that these prominent politicians have resources that far exceed

**Table 7.5. Assets Reported by Prominent Politicians**

	Petro Poroshenko <i>President</i>	Volodymyr Groysman <i>Prime Minister</i>	Yuliia Tymoshenko <i>MP, Leader of Fatherland Faction</i>	Oleh Liashko <i>MP, Leader of Radical Party Faction</i>	Yurii Boyko <i>MP, Leader of Opposition Bloc Faction</i>
<b>Individual Assets</b>					
Bank Assets (EUR)	14,372	16,200			
Bank Assets (USD)	26,324,870				31,385
Bank Assets (UAH)	8,730,478	2,136,413	485,971	2,035,475	655
Cash Assets (EUR)	14,372	476,200		90,000	15,000
Cash Assets (USD)	30,234,870	870,000		740,000	56,385
Cash Assets (UAH)	2,551,478	4,516,413	803,971	2,925,475	300,655
#/M <sup>2</sup> of Houses (UA)	4/5,327				
#/M <sup>2</sup> of Houses (Non-UA)	1/1,332	2/995			1/30
#/M <sup>2</sup> of Apartments (UA)	3/284			2/463	1.2/53
#/M <sup>2</sup> of Apartments (Non-UA)					
#/M <sup>2</sup> of Dachas (UA)					
#/M <sup>2</sup> of Garages (UA)				1/128	1/20
#/M <sup>2</sup> of Offices (UA)				1/183	
#/M <sup>2</sup> of Land (UA)	9/179,664	4/9,159		6/1,260	2/2,552
#/M <sup>2</sup> of Other (UA)		5/2,156		1/24	
<b>Family Assets</b>					
Bank Assets (EUR)	8,943				
Bank Assets (USD)					
Bank Assets (UAH)	71,146	193,549	2,989,650		32,140,498
Cash Assets (EUR)	8,943		163,000	40,000	
Cash Assets (USD)		372,000	270,000	200,000	
Cash Assets (UAH)	71,146	1,793,549	3,349,650	760,000	32,140,498
#/M <sup>2</sup> of Houses (UA)			1/588		1/445
#/M <sup>2</sup> of Houses (Non-UA)					
#/M <sup>2</sup> of Apartments (UA)	1/81	8/484	1/59.4	.33/22	1.8/322
#/M <sup>2</sup> of Apartments (Non-UA)					1/220
#/M <sup>2</sup> of Dachas (UA)	1/344				
#/M <sup>2</sup> of Garages (UA)					1/19.2
#/M <sup>2</sup> of Offices (UA)					1/27.5
#/M <sup>2</sup> of Land (UA)	2/9,411		2/3,362	2/592	10/41,140
#/M <sup>2</sup> of Other (UA)	1/2,425			1/550	
#/M <sup>2</sup> of Other (Non-UA)					1/15

those of most Ukrainian citizens should not be surprising to outsiders; it is unlikely to surprise Ukrainians. The large scale of wealth associated with major politicians reinforces a stereotype of Ukrainian corruption, especially at the highest levels of government. As I noted above, these data must be interpreted with an important caveat. The level of resources needed to become a prominent politician is substantial, and reported resources may not be the result of rent-seeking while in office. The association of many officials with the oligarchic class, notably Poroshenko, Tymoshenko, and Boyko, raises understandable questions about the propriety with which their assets were initially acquired. Other prominent politicians face different questions; Liashko, for example, does not have strong business ties, but was convicted of theft of government property in the early 1990s.<sup>26</sup> He has claimed that his assets are associated with lottery winnings, an assertion that civil society actors have found to be dubious.<sup>27</sup> While disclosure may be a first step in building accountability, e-declarations on their own do not appear to be an effective mechanism to eliminate corrupt behavior.

## **Conclusion**

This chapter provided an initial overview of a post-Euromaidan effort to expose possible corruption among government officials through the publication of asset declarations. The decision to require officials to report wealth is not a panacea for corruption, but it could serve as a deterrent if it is truly comprehensive and coupled with a meaningful enforcement mechanism.

However, the tool has come under criticism. Ukrainian citizens and nongovernmental organizations have bemoaned the failure of officials to follow up on e-declarations and prosecute officials who did not properly disclose wealth. While some cases have been filed, as I noted in chapter 4, activists have found the number to be inadequate. In addition, efforts in early 2018 to require anticorruption activists to file e-declarations have been criticized as attempts to stifle oversight and turn e-declarations into a weapon against civil society.

Critiques of e-declarations speak to a deeper concern about their accuracy and what researchers may infer from the data. On one hand, we should expect that intentional misstatements of wealth are highly likely to understate rather than overstate an official's holdings. Because both public and governmental anticorruption actors are attentive to large-scale wealth, it does not benefit an official to artificially inflate her financial or property levels. It is possible that wealth is unintentionally inflated, for example, by double-reporting bank accounts and cash, or committing a data entry error.

While it appears that government employees have more wealth than the general population, many government employees earn legitimate income. Yet the reported life experience of Ukrainian citizens in surveys, along with evaluations of corruption by nongovernmental organizations, suggests that extortion, bribery, and other forms of rent extraction have occurred. The e-declarations data also show that certain sectors of government workers seem to do better than others, and these observations track closely with the conventional wisdom about parts of government that are more corrupt. While we cannot infer from the data that wealth reported in e-declarations is illicit, the e-declarations sound an alarm of cases worth probing further.

The incomplete story of e-declarations and their use as an accountability tool adds to the overall narrative about the normalization of corrupt behaviors in Ukraine. Ukrainians have low levels of trust in government and high expectations of corruption. They experience corruption in their daily lives and have become inured to it. The revelations of riches associated with elected politicians and appointed officials do not come as a surprise, nor have they served as a catalyst for large-scale protest mobilization. In the long term, they may serve a valuable role in a system of accountability, but at the moment, they seem to confirm the perception of untrustworthy officials maintaining their positions and benefiting from ill-gotten gains.

The next chapter concludes the book, summarizing the argument and placing Ukraine in the context of its post-Soviet neighbors. It also



proposes some remedies that have been applied in other environments to build accountability and advance democratic practices.

## **CHAPTER 8**

## Conclusion

In the preceding chapters, I argued that Ukraine has faced significant challenges in its postcommunist transition. Most notably, democratically oriented actors have struggled to establish meaningful institutions of accountability. Insidious corruption has infiltrated political, economic, and social interactions, poisoning the curatives potentially provided by vertical, horizontal, and diagonal oversight mechanisms. Elections have failed to produce political parties with organizational persistence and roots in society. Government actors tasked with oversight have had limited success in reducing improper behaviors. In fact, arguably corrupt practices such as illicit legislative proxy voting and the widespread use of technical parties have been integrated into daily routines such that institutions cannot function without them. While civil society has made promising strides in alerting Ukrainian citizens and the international community to misdeeds, many of these practices persist. New efforts to create transparency, such as financial disclosures, have given citizens valuable information, but do not seem to have deterred illicit behaviors yet. The process of “normalizing corruption” presents a daunting challenge to efforts to develop a stable, democratic system in Ukraine and in other societies where vertical, horizontal, and diagonal accountability mechanisms fail to form or break down.

The 2019 election victories of President Volodymyr Zelenskyy and his Servant of the People Party potentially present a turning point in Ukraine’s struggle with normalized corruption. Zelenskyy and his party campaigned as anticorruption outsiders who could challenge entrenched, illicit behaviors. Of course, Ukrainian citizens also heard these claims from other politicians after the Orange Revolution and Euromaidan Revolution of Dignity. As the new administration embarks on its efforts to confront the past, will it lead to a fundamental break from traditional practices, or will it fall prey to the lures of persistent, normalized corruption? While I cannot definitively answer these crucial questions, this chapter provides a broader setting for the challenges facing President Zelenskyy and the government led by his political party.

This final chapter concludes the narrative about accountability in Ukraine and provides additional context for other societies that face similar challenges. The chapter's first section summarizes the book's findings and methodological contributions to the study of accountability, democratization, and postcommunist politics. It also identifies aspects of Ukraine's political, economic, and social environment that I was unable to explore in depth but are important targets for future research. The second section places Ukraine's experiences in the context of other postcommunist societies. The third section discusses potential remedies for malfunctioning accountability mechanisms that have been effective in other environments, and comments on their potential applicability in Ukraine.

## **Failures of Accountability in Ukraine**

### ***Summary of the Book's Findings***

The first two chapters of the book established the basic definitions of accountability and applied them to a post-Soviet context. Chapter 1 emphasized the complexity of the concept, noting its ancient roots in Western and Slavic societies and its modern manifestations as vertical, horizontal, and diagonal subtypes. Chapter 2 discussed one of the main targets of all accountability tools: corruption. In addition to defining corruption, I placed it in the context of Soviet and post-Soviet Ukraine.

The following three chapters evaluated the main types of accountability, focusing on specific examples in the Ukrainian context. Chapter 3's investigation of vertical accountability illustrated how Ukraine has produced both promising and disappointing outcomes. Citizens cannot always be certain that their preferences are accurately translated into election results, but when institutions have functioned at their best, elections have approached international standards. Incumbent politicians lose seats, a necessary feature of vertical accountability, but it is unclear if this outcome is due to citizens holding them to account, or because of the inchoate party system and unstable electoral system.

Chapter 4's assessment of horizontal accountability told a slightly different story. Parliamentary deputies regularly use their power to ask questions as a

form of oversight, but it is unclear if these actions have modified policy decisions. The chapter also discussed how parallel, informal power wielded by oligarchs is largely unchecked through formal institutions. While reforms put in place after Euromaidan were designed to institute new horizontal accountability mechanisms, their effectiveness has been modest.

Chapter 5 outlined the method of accountability that has arguably been most successful: diagonal accountability. Improper behavior by officials has been met by citizen mobilization, sometimes large-scale demonstrations. Protest behavior has encouraged formal institutions to drastically alter course—such as the negotiated settlement during the Orange Revolution and the abdication of authority by Yanukovych during Euromaidan. While this method has been successful, it is both costly and problematic to rely on street protests to institutionalize accountability.

These chapters also introduced the notion that corrupt practices have been normalized in Ukraine. Efforts to build functioning democratic institutions have clashed with countervailing incentives for politicians to shirk their responsibilities, engage in rent-seeking, or otherwise violate the spirit—if not the letter—of democratic rules. In many cases, citizens and politicians seem to have entered into a Faustian bargain in which corrupt behaviors are accepted or ignored because they provide other benefits. The discussions of proxy voting in parliament (chapter 5) and technical parties in election administration (chapter 6) exemplify how corruption infiltrates democratic institutions and becomes essential for day-to-day functioning.

The practice of illicit proxy voting in parliament has been informally institutionalized as a way to overcome collective action problems. While it was first vilified by the democratic opposition as an improper practice of the Party of Regions, it was adopted by these forces once they took power. The practical need to garner 226 affirmative votes for legislation to pass, coupled with venal, unprofessional politicians, created an environment in which it became easier to accept a corrupt bargain than to struggle to gather votes through standard practices. While President Zelenskyy has singled out proxy voting as a practice he intends to end, he is likely to face the mobilization challenge that has contributed to its persistence.

In the same way, the need to populate election commissions led to the growth of technical parties. Large-scale mobilization demands, statutory requirements for commissions that accommodate all parties, and continued opportunities to influence the vote by controlling commissions have incentivized major parties to stack the deck on commissions through the use of technical parties. As the 2014 presidential election illustrated, when these technical parties do not participate, the mobilization needs of election administration cannot be fulfilled. Even though the commissioners appointed by technical parties may not always uphold free and fair practices, they have become a necessary component of mobilizing citizens to administer elections and comply with statutory requirements.

The final analytical chapter also spoke to the issue of normalized corruption. The revelations of wealth held by politicians, publicized by e-declarations, gave Ukrainian citizens new information about the assets of the political class. However, citizens already suspect government officials of corrupt behaviors and express little faith in most institutions. With limited follow-up by anticorruption institutions—which have also clashed with each other—this mechanism of accountability has produced few consequences for those who misrepresented their income or gained it through improper means. E-declarations, at the moment, serve more as a reminder to Ukrainians citizens that the political class differs from them and reinforces stereotypes of politicians as beneficiaries of ill-gotten gains.

### ***Methodological Contributions***

The underlying argument of this book has been that the development of functioning institutions of accountability is essential for successful democratization. While the study of accountability is well established in political science research, one of this book's contributions is the emphasis on different types of formal accountability mechanisms as a foundation of democratic consolidation. Building on the theoretical arguments of other scholars, it has emphasized the importance of three types of accountability mechanisms: vertical, horizontal, and diagonal. Further, it showed that failures in accountability are due, at least in part, to a paradoxical situation in which corrupt methods are normalized to ensure that ostensibly democratic institutions function. This “deal with the devil”

permits institutions to carry out their tasks, but relies on processes that undermine their democratic credentials.

In addition to extending our knowledge about the essential role of accountability in democratization, the book uses diverse data to demonstrate how accountability has succeeded and failed. While the research may fall short of a fully realized “mixed-methods” research design, it draws from a wide range of data and analytical approaches. The book synthesizes the analysis of quantitative data (election results, crowdsourced violation reports, financial declarations), qualitative data (election observation reports, participant observation of election administration by the author), and hybrid data (deputy requests). The research would not have been possible absent engagement with the subject matter through fieldwork and extensive data analysis. It serves as an illustration of how incorporating multiple analytical techniques can enrich our understanding of individual cases and more broadly generalizable themes.

Although the book engages the topic of accountability in a single country, it speaks to scholarship on the postcommunist region and beyond. Ukraine’s specific idiosyncrasies, such as the extensive use of technical parties, are not widely replicated. However, the more general phenomenon of normalizing corruption is found elsewhere in the region (Engvall 2015) and in other parts of the world (Holland 2017).<sup>1</sup> I hope that the book points to research approaches that scholars may adapt to study variations on the phenomenon in the postcommunist world region and beyond.

### ***Areas for Future Research in Ukraine***

While the book assessed a wide range of formal and informal practices, the discussion of accountability and normalized corruption could have been extended into many other domains. Exploring these issues provides potentially rich opportunities for future research. The judiciary is a crucial player in oversight, and this branch of government has been the focus of reform efforts promoted by domestic and international actors. Local government plays an essential role in the redistribution of resources, and many positions are subject to elections. The bureaucracy is a critical point

of contact between citizens and the state, and a place where government actors extract revenue from citizens.

The judiciary, local government, and the bureaucracy appear in several chapters, but they are not the central focus. Efforts to reform local police and to empower local governments have received considerable attention since Euromaidan. Reformers have also instituted additional efforts to control the role of money, notably modifying the system of public tenders to make them more transparent and less susceptible to graft.<sup>2</sup> More analysis about these areas of governance could enhance our understanding of accountability and democratization, and they should be the subjects of future research.

Although the annexation of Crimea and war in Donbas loomed over discussions of accountability, the book did not fully confront the implications of Russia's role in retarding the development of democratic oversight practices. Wartime conditions constrain the ability of politicians to engage in democratization; security concerns may trump freedoms associated with fully developed democracies. This challenge was manifested in the brief declaration of martial law in late 2018, covering ten regions, after Russia seized naval vessels in the Kerch Strait. The external threat posed by the Russian Federation's annexation of Ukrainian territory, active engagement in combat activities in Donbas, and other actions aimed at undermining Ukrainian sovereignty impose constraints on the actions authorities in Kyiv can effectively implement. Ukraine provides a valuable case for future research on how the threats of hostile neighbors constrain and influence the behavior of domestic political actors.

The book also focused on Ukraine, rather than engaging in a more comparative framework. This approach was by design, to tell the story of accountability in detail and with some nuance about the context. While aspects of Ukraine's case may be unique, many of the choices, consequences, and lessons may be applied more broadly. The following section begins to outline how Ukraine is linked to a wider set of countries that have experienced challenges to democratization and the development of accountability. Rather than situating Ukraine among all countries that have struggled after authoritarian collapse, I compare Ukraine's experience

with the most similar cases: other Eastern European and Eurasian countries that abandoned communist rule in the final decade of the twentieth century.

### **Lessons from Other Post-Soviet Societies**

In the post-Soviet neighborhood, Ukraine has been a middling performer in terms of democratization. It has not failed miserably like Belarus, Azerbaijan, or most of the Central Asian states. It has also not made progress like the Baltic states or—in some measures of accountability—the Republic of Georgia. Ukraine’s trajectory toward democratic governance has undulated; it has experienced periods of decline, especially prior to the Orange Revolution and Euromaidan protests, and periods of improvement, especially in the mid to late 2000s. While progress has been halting and slow, Ukraine is positioned in a “gray area” of transition along with the Republic of Georgia and Moldova. It is situated well below the Baltic states of Estonia, Latvia, and Lithuania, which have successfully consolidated democracy, and well above other countries that have settled on new forms of authoritarian rule: the remaining countries of the South Caucasus, Central Asia,<sup>3</sup> Belarus, and Russia.<sup>4</sup>

Just as its democratic quality has varied, so too has the quality of accountability. The Varieties of Democracy Project, cited in chapter 2, launched a new set of indexes in 2017 to describe vertical, horizontal, and diagonal accountability. How does Ukraine fare on these measures? As figure 8.1 illustrates, the Baltic states (Estonia, Latvia, and Lithuania) are consistently better performers on all three measures of accountability. Georgia falls behind Ukraine at some points in time, but outperforms it after 2010. After tracking closely with Ukraine in the first few years, Russia declines to the worst performer among these six countries.

It is important to avoid fetishizing the Baltic states when assessing a path forward for Ukraine. Notions that Baltic countries are somehow culturally distinct and thereby less prone to corrupt behaviors is challenged by evidence from the region (e.g., Taagepera 2002; Kairiene 2013). While they have been the most successful post-Soviet states by almost every political, economic, and social measure, they have not eliminated corruption (Jo-hannsen and Pedersen 2014).



Long-standing members of the EU have struggled with corruption or weak accountability, and the Baltics are not immune, as evidenced by their presence in the Panama Papers and other revelations of corrupt activities. For example, in 2004, Lithuanian president Rolandas Paksas was removed from office via impeachment for corrupt interactions with a businessman tied to organized crime (Juska and Johnstone 2004). This event occurred after Lithuania joined NATO and just prior to EU accession.<sup>5</sup> In 2018, Latvian banks were accused of engaging in large-scale money laundering.<sup>6</sup> These events are treated as scandals, however, and not a normalized aspect of political and economic life.

While developing democratic accountability equivalent to top international performers such as Norway may be an aspirational goal, expectations for Ukraine must be more realistically set, because every country struggles with illicit behaviors by government officials, albeit at different levels of magnitude and scope. The more relevant question is, in the struggle to improve governance, how can Ukraine's political institutions begin to behave more like those in the region's top performers and less like those in the rest of post-Soviet space?

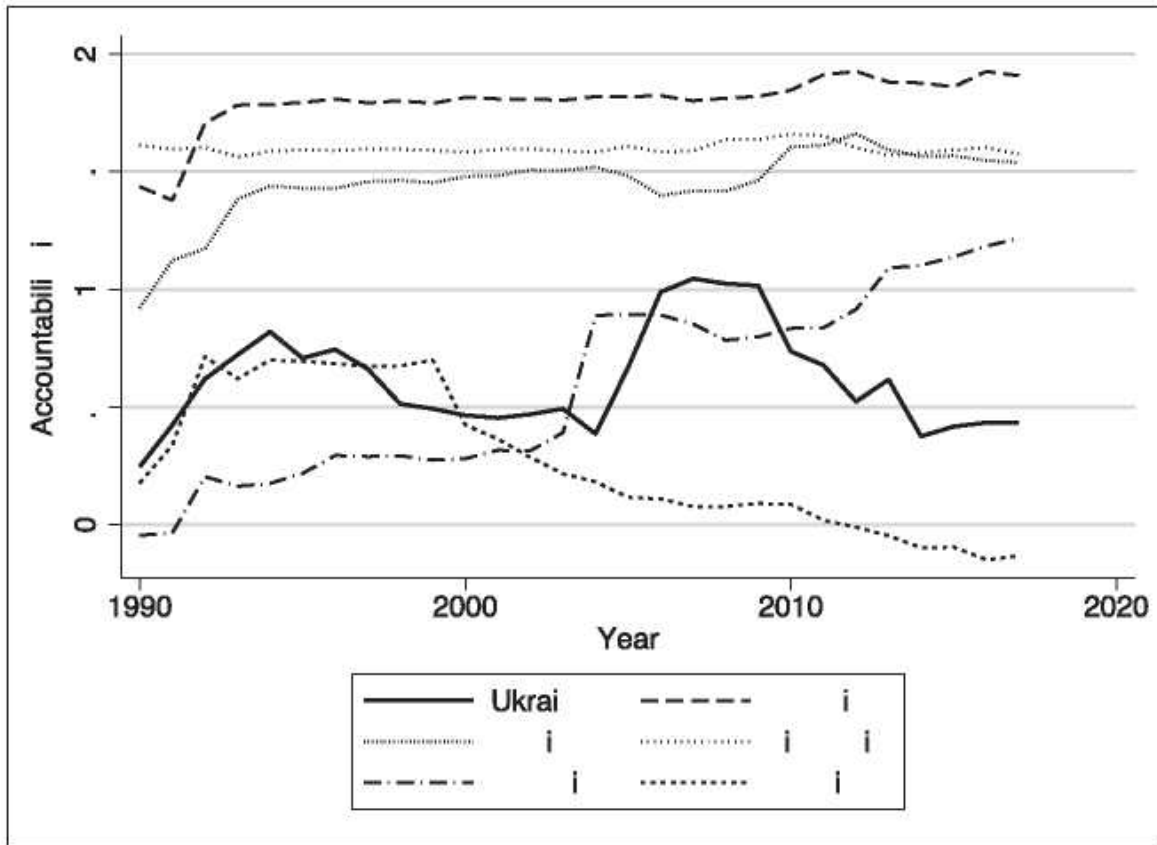


Fig. 8.1. V-Dem Accountability Index

### *Lessons from the Baltic States*

The Baltic states share many important features with Ukraine. They were incorporated later into the Soviet Union, with the western part of Ukraine absorbed by the USSR at the same time the Baltic states were annexed. While some parts of Ukraine experienced Soviet rule over the entire lifespan of the USSR, parts of Ukraine did not. Baltic and Ukrainian populations suffered because of collectivization, deportations, and other consequences of Soviet central planning. Estonia, Latvia, and Ukraine have large Russophone populations whose orientations may differ from the titular nationalities (e.g., Barrington, Herron, and Silver 2003). Yet on some measures of political and social attitudes, citizens of the Baltic states have not seemed substantially different from their Slavic post-Soviet neighbors (Taa-gepera 2002).

Of course, the Baltics and Ukraine also have many glaring differences. Ukraine is much larger—in terms of land mass and population—than all of the Baltic states combined, contributing to a more complex social, economic, and political environment. While the Baltic states and Ukraine share large Russophone populations, the Ukrainian language is much more closely related to Russian than the Baltic and Finno-Ugric languages spoken in the Baltic states, and Ukraine is home to a hybridized version of the languages called Surzhyk. Only Ukraine has experienced post-Soviet Russian occupation and annexation of territory, as well as an ongoing war.

The Baltic states' incorporation into the USSR was not recognized internationally. While most independent countries at the time acknowledged Soviet control, they did not recognize the legality of the occupation. The treatment of the Baltic states is similar to international behavior regarding Crimea. Its annexation by Russia is not formally recognized by most of the world community, although a majority of UN member states did not support a 2016 resolution to deem Russia an occupying power.<sup>7</sup> The complication for Ukraine is that no event akin to Soviet collapse that freed the Baltic states is on the horizon to reunite Crimea—or the occupied parts of Donbas—with Ukraine proper. Ukraine must seek a path forward while it is not whole, complicating the reform process.<sup>8</sup> This challenge is one that the Baltic states did not face in the transition from Soviet rule.

In addition, the Baltic states have enjoyed structural benefits over their post-Soviet peers. Their status as more “advanced” Soviet republics,<sup>9</sup> geographic proximity to the European Union, and strong relationships with Northern European states facilitated a welcome to the EU and NATO. The formal integration of the Baltic states was not immediate, however. They were officially incorporated into NATO and the EU over a decade after Soviet collapse, in 2004.

The Baltic states strengthened anticorruption policies as part of their efforts to move toward Europe, and these efforts began soon after the Soviet collapse. An important difference emerged among these three countries: Latvia and Lithuania established independent anticorruption agencies while Estonia did not, instead coordinating efforts in the Ministry of Justice. The orientation of anticorruption activities has differed as well,

with Estonia's efforts emphasizing prevention over enforcement and Latvia and Lithuania prioritizing the latter (Johannsen and Pedersen 2011). Yet another difference is the orientation toward management philosophy, with Estonia and Latvia adopting some aspects of a Weberian merit-based civil-service model alongside the more entrepreneurial approach of the New Public Administration model. By contrast, Lithuania opted for a Weberian approach.<sup>10</sup> Despite these differences, all three countries have made similar progress, suggesting that no single approach is superior in delivering outcomes.

These models provide potentially different paths for Ukraine. I discussed the establishment of Ukraine's anticorruption agencies in chapter 4, and the creation of these independent bodies follows the Latvian and Lithuanian models. Latvia formally established the Corruption Prevention and Combating Bureau in 2002. The Bureau has a sizable full-time staff, which manages criminal investigations as well as public education programs. It has the power to initiate legislation and oversee the development of laws to expose potential weaknesses that could permit corrupt practices to emerge (Johannsen and Pedersen 2011). Lithuania drew on experiences in Europe and Hong Kong to reform law enforcement by forming units designed to combat corruption and establishing the Special Investigative Service (Dobryninas 2005).<sup>11</sup> The Lithuanian government developed a national policy for anticorruption that encompassed more than law enforcement: regularizing audit practices, developing codes of conduct for civil servants, and creating a law on lobbying activities (Doig 2006). Unlike the Latvian agency, Lithuania's anticorruption authority does not have the power of legislative initiative (Johannsen and Pedersen 2011).

Estonia seems to have generally escaped from large-scale corruption scandals, unlike its neighbors, and is regarded as the top-performer among postcommunist states in reducing corruption.<sup>12</sup> Estonia emphasized administrative reforms through its program "An Honest State." The plan includes extensive auditing, the institution of e-declarations, the establishment of codes of conduct, and the promotion of a moral and ethical approach to discourage illicit behavior via a civic campaign.<sup>13</sup> Estonia emphasized the transition to "e-government" activities as a way to

expand transparency and reduce citizen contact with intermediaries in the civil service who could extract rents (Karv 2015).

### ***Lessons from the Republic of Georgia***

The other relatively strong performer, the Republic of Georgia, took a different path. Similar to Ukraine, Georgia has not been invited to join European institutions like NATO and the EU. It also has territories occupied by Russian-aligned forces (Abkhazia and South Ossetia). But it arguably made progress over the last two decades in reducing corruption and improving accountability.

After the Rose Revolution in 2003 elevated Mikheil Saakashvili to the presidency, he embarked on many reforms to address corruption. In a break from other examples of successful corruption mitigation, Georgia moved forward with a type of “shock therapy” for anticorruption, rather than pursuing incremental reforms. Unlike Latvia and Lithuania, Georgia did not form an anticorruption agency. Georgian reformers seem to have adopted the perspective that an independent anticorruption agency could be successful only in a largely functioning society where a small number of sectors needed reform. A system that was rotten to the core required a different approach that relied on a strong, committed leadership; citizen support; thorough restructuring of government institutions; and a combination of efforts to prevent improper behaviors and to punish perpetrators (Engvall 2012).

The extensive nature of reform efforts is visible in the case of higher education. Rather than solely focusing on the prevention and prosecution of bribery, higher-education reforms introduced shared governance, student representation, separation of academic and financial authority, and new lines of accountability (Temple 2006) as well as competitive entrance exams designed to reduce bribery (Light 2014). The structure and assumptions underlying prereform higher-education management were extensively altered by these changes. This principle was applied to other sectors, but the Georgian approach also incorporated more punitive measures.

While Georgia's reforms have largely been viewed as successful, they were costly as well. The bureaucracy was reduced substantially, with fifteen ministries eliminated and eighteen agencies closed or merged. Many government employees were fired: 15,000 police officers,<sup>14</sup> 2,200 bureaucrats in the public registry, and most customs officials. In sum, around 60,000 positions were eliminated or civil servants fired. The dismissals permitted the state to increase pay rates, a measure designed to reduce incentives for corruption (Light 2014; Gugushvili 2017). Prominent members of the political elite were arrested, including former cabinet ministers and the railway chief (Kupatadze 2012). Some of the solutions bordered on authoritarianism and abuse of the judicial system, however, with aggressive policing tactics (e.g., Schueth 2012; Light 2014) and human-rights abuses reported in prisons. Moreover, some accused Saakashvili of using the anticorruption housecleaning to target political opponents (Kupatadze 2012).

The Georgian path to reduced corruption was driven in large part by a strong leader whose choices involved a Faustian bargain similar to the one Ukraine has already accepted. In this case, Georgians accepted—for a time—benevolent authoritarianism to build a foundation of order and accountability that could facilitate democratic transition. Georgia is demonstrably less corrupt, but poverty reduction has been minimal, suggesting that the practical impact has not been as substantial as hoped for most citizens (Gylfason and Hochreiter 2009; Gugushvili 2017). The draconian measures that Saakashvili adopted also contributed to his ouster; he is currently living in exile after leaving Georgia and subsequently serving a brief stint as the governor of Odesa Oblast in Ukraine and later failing to gain a parliamentary seat in 2019.

In sum, Georgia took a path that differed structurally from the approach adopted by Latvia and Lithuania. While its reliance on administrative reform managed through elected leaders with the political will to challenge embedded corruption is closer to Estonia's approach, Georgia inherited far deeper corruption and took more aggressive state-driven actions to combat illicit behaviors. Its path has led to improved outcomes, but it incurred high social and political costs.

## **Paths to Accountability**

The Baltic states and Georgia provide models that Ukrainian politicians could emulate to improve accountability and reduce corruption. In general, their reforms were designed to enhance transparency; create meaningful oversight; and change the orientation of citizens and public officials to bribery, embezzlement, and other corrupt practices that were commonplace. While no course of action eliminates all corruption, these post-Soviet states that share many characteristics with Ukraine have demonstrated forward momentum.

Estonia, Latvia, Lithuania, and Georgia diverged in their approaches, but followed the contours of two general models. The first is an incremental approach, led by an empowered and independent anticorruption agency. While this approach may be less prone to abuses than a more centralized model, it may also be less likely to succeed in an environment of deeply rooted, endemic corruption, because reform efforts in one area of governance can be stymied by institutionalized corruption in another area.

The second general model involves anticorruption efforts managed by existing institutional actors and involves extensive restructuring similar to the “shock therapy” approach to economic reforms pursued after the USSR’s collapse. This form of extensive, rapid “house cleaning” may include large-scale firing of officials, rebuilding the bureaucracy in a slimmer form, and heightening enforcement efforts. A more aggressive approach may root out corruption, but it creates the risk of partisan abuse.

Latvia and Lithuania generally took the first approach and Georgia adopted the second. Estonia seems to have navigated a path in between, managing the process of reform without an independent anticorruption agency while modernizing the bureaucracy and avoiding the extremely aggressive enforcement pursued by the Georgian state. As I have already noted, the Baltic states benefited from a more fortuitous starting point: corruption was less deeply embedded in those countries at the point that anticorruption efforts accelerated, and they shared the promise of EU accession if they managed their transition successfully. Georgia had just emerged from more than a decade of postcommunism under an administration in which corruption was embedded. Many in Georgia’s

political elite expressed aspirations to join European institutions, but the EU did not reciprocate with an accession plan.

In the remainder of this section, I outline some of the potential benefits and drawbacks in selecting different paths to accountability, focusing on the lessons learned from other transition experiences in postcommunist states as well as some additional transitions to functioning democratic accountability. It is important to note that research on the effectiveness of anticorruption strategies has come to little consensus about what consistently promotes better behavior in citizens and civil servants (Gans-Morse et al. 2018). I emphasize four broad areas of reform typically associated with successful changes: developing norms among citizens and the elite, reforming and simplifying the bureaucracy, applying incentives and punishments, and establishing essential buy-in from political and economic actors.<sup>15</sup>

***Developing Norms.*** An important finding in research about corruption prevention and the establishment of democratic accountability is the role of attitudinal and behavioral norms. Research has noted that among Estonian officials and citizens, the perception that corruption is pervasive and acceptable substantially contributes to the propensity to engage in corrupt acts (Tavits 2010).<sup>16</sup> In other words, when officials believe that others are extracting rents, they are more likely to engage in that behavior. When citizens believe that others pay bribes, they are also more likely to engage in that behavior.

Replicating the bad behavior of others could emanate from various sources. During research visits in Ukraine and interactions with scholars abroad, I encountered students and faculty members in higher-education institutions who acknowledged that they paid or accepted bribes in exchange for improved grades.<sup>17</sup> The students suggested that in certain departments or with certain professors, it was the “only way” to secure an acceptable grade. Faculty members noted that if the norm of taking bribes was present, and a faculty member refused to participate, that individual could be coerced into participation through ostracism from the group or other forms of punishment.<sup>18</sup> These observations, while anecdotal, are supported in research (Osipian 2017).



Campaigns driven by government and civil society to provide clear alternatives to corruption and to stigmatize bad behavior could be a valuable component of a comprehensive plan. Anticorruption training and professionalization activities for bureaucrats (Michael, Kennon, and Hanson 2006) have been an important aspect of successful efforts like those in Estonia (Palidauskaite, Pevkur, and Reinholde 2010). While the suggestion of “increased training” may be perceived as a cliché of international aid efforts, training can influence the attitudes of public servants when they are confronted with the lures of corruption (Herron, Boyko, and Tunberg 2017; Herron and Boyko 2016). Developing norms among citizens and public officials that corruption is both morally and situationally improper (Tavits 2010) is crucial, albeit a long-term effort.

The framing of the overall campaign may also be important to successful implementation. Di Puppò (2013) notes that Georgian reform efforts emphasized the development of “good governance” in the context of institutional reforms, rather than focusing on the term “anticorruption.” Estonia similarly pitched its program as developing “An Honest State.” To give a wide range of actors an incentive to buy in to these efforts, it may be useful to replicate this rhetorical approach. Instead of focusing on the punishment of some bad actors for aberrant behavior, anticorruption efforts are subsumed under the umbrella of building good governance practices. While this approach does not exclude punishments for improper actions, it emphasizes establishing habits associated with ethical behavior.

Another critical aspect of developing habits is to create and maintain stable institutional rules. Constant tinkering with electoral systems, noted in chapter 3, generates an environment in which politicians do not adapt to existing rules but instead battle to change the rules to benefit themselves in the short term. Settling on an electoral system and ancillary rules that support the stabilization of the party system could help Ukraine establish more effective vertical accountability.

***Reforming and Simplifying the Bureaucracy.*** Many of the conditions that propelled the Baltic states into NATO and the EU are not present for Ukraine. Nevertheless, the underlying process of aligning legislation and governance practices with the *acquis communautaire*, required of all

aspiring EU members, would be a valuable target for Ukraine. Several chapters of the *acquis* promote good governance and enhance oversight, and Ukrainian reforms have adopted some of these practices, at least on paper. Modifying institutional practices to comply with the *acquis* in public procurement (chapter 5); the judiciary (chapter 23); justice, freedom, and security (chapter 24); financial control (chapter 32); and institutions (chapter 34) would directly confront corruption and accountability matters. While Ukraine does not have a direct path to membership, taking actions that proceed *as if* a path were open could begin to address underlying issues.

Ukraine has also pursued decentralization efforts to empower local governments. Decentralization provides some benefits by modifying administrative boundaries to reflect population changes, moving decision-making closer to the level of citizens, and giving local actors authority that could enhance economic development efforts (Lankina, Gordon, and Slava 2017). In this process, however, it is essential to avoid creating new opportunities for rent-extraction without adequate oversight (Diaby and Sylwester 2014). Ukrainian scholars have already warned of the potential for decentralization to follow the fate of other reforms by being hijacked by corrupt interests (Udovychenko et al. 2017).

The Estonian approach of emphasizing e-government reduces areas of contact between citizens and bureaucrats where bribery and embezzlement could occur. Ukraine's information technology infrastructure is weaker than Estonia's, with lower levels of internet penetration and higher vulnerabilities to hacking by bad actors, but it has made efforts to introduce e-government. The Prozorro system of procurements and the e-declaration program serve as valuable examples of how online government activities can enhance transparency, help to mitigate corruption, and build accountability. Some elected members of the Servant of the People Party have promised to expand e-government for these reasons.<sup>19</sup>

In some of the cases discussed in earlier chapters, the bureaucracy potentially could be streamlined. Election administration, especially in polling stations, requires large numbers of poll workers to process voters and ballots, but many of these tasks could be simplified, reducing

opportunities for bad actors to improperly influence the process.<sup>20</sup> For example, modifying voting technology so ballots use optical-scan technology could permit the counting process to move from polling stations to district commissions. District commissions have engaged in illicit behaviors in past elections, but centralizing the monitoring of vote counts could render the process more transparent and make fraud easier to expose. If a streamlined bureaucracy were coupled with reforms designed to professionalize election administration, these changes could reduce the opportunities for major parties to influence the process through technical parties and alleviate the need for the mobilizational capabilities of technical parties.

In sum, reducing opportunities for rent-seeking by simplifying the bureaucracy and creating increased transparency in decision-making at all levels is another important component in overcoming entrenched corruption.

***Incentives and Punishments.*** Another lesson from successful transition states is that some combination of positive inducements and negative consequences helps to incentivize better behaviors. I noted in chapter 6 that illicit side payments by political parties were an important factor in recruiting election administrators. Professionalizing election administration by reducing its size, enhancing its training, and elevating its pay could help reduce improper activities. Streamlining bureaucracy and increasing pay were factors in Georgia's successes in corruption reforms. The reduction in the number of civil servants allowed the Georgian government to raise salaries, reducing the incentives for rent-seeking. While this strategy is especially challenging in poorly performing economies, providing a living wage that is regularly increased to keep up with the cost of living can provide a critical incentive for better behaviors.

The successful experiences of the Baltic states and Georgia also incorporate consequences for corrupt behaviors. Street-level bureaucrats and high-level politicians have been punished for violating the law. This component of an anticorruption plan could include prosecution for illegal activities, censure in the legislature for violating rules such as proxy voting, or removal from office for misdeeds such as extensive failure to disclose assets. The

Zelenskyy administration has made early progress by removing parliamentary immunity and promising to crack down on legislative proxy voting.

While punitive approaches can lead to excesses, as in the Georgian case, it is important to signal to actors at all levels that they will be held responsible for improper actions. The impeachment of Lithuania's President Pak-sas speaks to this issue, demonstrating that the most powerful are not immune. Impeachment is a horizontal accountability tool that was properly used to punish the Lithuanian president for illegal actions. While it is unlikely that all perpetrators will be subjected to a legal process, it is important to convince the most powerful political and economic actors to "buy in" to the democratic process.

***Buy-In from Political Forces.*** Scholars and political observers consistently note that a necessary condition for a successful democratic transition, reduction in corruption, and establishment of meaningful accountability mechanisms is buy-in from powerful politicians. While international actors can incentivize reform efforts, domestic political will is essential (Engvall 2012; Kupatadze 2012).

Political will is a difficult concept to operationalize (Post, Raile, and Raile 2010), but it is defined implicitly in work on anticorruption reforms as a commitment by individual politicians, as well as organizations such as political parties, to actively promote adherence to formal rules and informal democratic norms. In many cases, the promotion of fair rules may harm these actors electorally because reform efforts could be disruptive and convey high costs to society in the short term. Political will thus requires firm adherence to proper behavior and consistent application of the rules, even when these actions could be professionally damaging to the leaders or their political parties.

While the post-Euromaidan circumstances seemingly created an environment in which politicians could be rewarded for taking strong anticorruption stands, the evidence on high-level commitments has been mixed. Anti-corruption agencies have been formed, but they have at times fought pitched battles with one another. Corruption at the highest levels seems to be tolerated: many politicians who complained about technical

parties and legislative proxy voting under the pre-Euromaidan regime seem willing to take advantage of these techniques to achieve their preferred political outcomes. Moreover, no high-profile prosecutions of corrupt politicians have yielded a signature victory for anticorruption agencies or activists. As I have outlined throughout the book, vertical, horizontal, and diagonal accountability mechanisms are in place, but they do not consistently yield consequences for bad actors. President Zelenskyy and Servant of the People have taken strong early stances on anticorruption efforts, but sustaining them is a greater challenge.

In addition to drawing from successful cases of democratization in former Soviet countries, it is worth taking a wider view of democratization efforts that were successful. Research on earlier waves of democratization in Western Europe suggests that another critical component of political will is absent from Ukraine: buy-in by conservative forces. Daniel Ziblatt (2017) powerfully argues that the establishment of a conservative political party that effectively represents those who held power under the previous regime is an essential ingredient for democratic consolidation. His primary subjects of study—Western European states in the late nineteenth and early twentieth centuries—share some commonalities with Ukraine today. As in Ziblatt’s historic cases, moneyed oligarchic interests that are inherently antidemocratic need to be sold on the idea of democracy. Reaching this kind of understanding often entails another type of “normalized corruption”: in exchange for guarantees that they can preserve much of their wealth (even if it was illicitly gained), wealthy, conservative power brokers agree to accept regulatory practices that would take away illicit paths to revenue in the future.<sup>21</sup> While the creation of this type of “conservative” party would also require safeguards against its transformation into a dominant antidemocratic party like United Russia (Reuter 2017), an organization representing these interests may be a critical ingredient to successful democratic consolidation in Ukraine.

In addition to representing oligarchic interests, the preferences of Ukrainians who hold an orientation more sympathetic to a Russian (or Soviet) worldview need to be represented in formal institutions. Crimean annexation and the Donbas War have removed many Ukrainian citizens who hold these views from active participation in political life (Herron,

Tun-berg, and Boyko 2015). Yet citizens who prioritize honoring the Soviet past; maintaining perceived historic, cultural, and religious ties with Russia; and preserving a place for the Russian language in Ukrainian life also need to be included in the conversation for democratic consolidation to occur. An inclusive Ukraine is more likely to create a citizenry loyal to the country and invested in its long-term success. In some ways, the Party of Regions served as an oligarchic party that also represented this worldview, but it was not committed to the democratic process. The Party of Regions' currently active splinter parties (e.g., Opposition Bloc, Opposition Platform—For Life) have not developed into meaningful successors at this point in time.

The establishment of stable electoral rules, along with meaningful representation of citizen interests and the streamlining of a more professionalized election administration, should also create conditions for conflicting political forces to more closely monitor each other. As I illustrated in chapter 6, the second round of the 2010 presidential elections yielded limited evidence of fraud. One possible reason is that election administration rules divided all of the election commissions into two camps: commissioners who represented Yuliia Tymoshenko and commissioners who represented Viktor Yanukovich. Faced with a balance of power on commissions, and absent technical parties that could sway votes, the counting process was largely fair. Establishing conditions where processes are transparent and balanced will ameliorate the incentives for illicit actions.

In sum, the development of meaningful institutions of accountability and the reduction of corrupt behaviors can occur, even in a post-Soviet environment. The task confronting Ukraine requires a systematic effort to change rules and norms at every level of society. Charismatic, skilled, and assertive leaders may facilitate the process, but individual personalities are not sufficient to fundamentally change the system. As I noted in earlier chapters, Ukraine imported several skilled professionals to take high-level government positions after Euromaidan. Some of these figures led meaningful efforts to reform moribund public sectors. For example, Ulana Sup-run launched a sweeping reform of the health-care system as Minister of Healthcare that has been successful on a number of measures including reducing corruption. Outsiders may be better positioned

to attack illicit or inefficient practices because they have not personally benefited from them. Nevertheless, restructuring formal and informal institutions cannot rely on specific individuals; it requires a collective commitment to transform how the business of politics is conducted.

While the complete elimination of corruption is only an aspirational goal, corruption reduction is realistic. Building formal rules and informal habits that incentivize ethical behavior and root out illicit behavior can help change corruption from a normalized activity to one that is stigmatized and less effective in benefiting perpetrators. Balancing competing interests and advancing accountability while Ukraine's sovereignty is threatened by Russia and its territory is occupied is the daunting challenge that President Zelenskyy and his allies face. Ukrainians have looked with optimism at new administrations before, only to be disappointed by their failures. Breaking with the past will require more than rhetorical commitments, because normalized corruption is a resilient and powerful force.

## **Final Thoughts**

In the previous seven chapters, I argued that constructing meaningful mechanisms of accountability is essential for successful democratization, and that Ukrainian authorities have failed to establish and uphold consistent, reliable accountability practices in many crucial areas. I further argued that many of these failures were not due to unintentional mistakes or faulty design, but rather were systematically integrated into the system through a Faustian bargain in which officials accepted the persistence of corrupt practices in exchange for nominally functioning institutions.

Ukraine's failures to develop accountability are due, in part, to opportunistic behavior by Ukrainians themselves. But Ukraine also faces pressures from a hostile neighbor that have impeded progress. Russia's annexation of Crimea and active participation in kinetic warfare in the Donbas amplifies the difficulties of moving away from normalized corruption. These challenges are not a negative externality of Russian actions, however. Russia's actions toward Ukraine are designed to amplify division and conflict.

One of the reasons for Russia's targeting of Ukraine is its potential to emerge as a functional democratic society. Ukraine's successes counter the Russian political elite's narratives justifying the authoritarian practices of President Vladimir Putin. Extricating itself from the morass of normalized corruption will not only advance Ukrainian democratic consolidation, but strengthen it as an independent entity. A victory in the battle against corruption is also a victory in Ukraine's long struggle for sovereignty.

Despite some of its unique features, the Ukrainian case is not isolated. Other countries—in the post-Soviet neighborhood and beyond—have experienced forms of normalized corruption. Ukraine's efforts will serve as an example to other transitional countries in the future. The main question that remains is whether it will emerge as a case for others to emulate along the road to successful democratic consolidation, or as cautionary tale of the path to failure.



# NOTES

## *Introduction*

1. This book generally uses transliterations based on Ukrainian-language names (e.g., Kyiv) rather than Russian-language transliterations (e.g., Kiev). To the extent possible, the transliterations in this text conform to the Ukrainian Cabinet of Ministers' January 27, 2010, Resolution 55 "On Normalization of Transliteration of the Ukrainian Alphabet by Means of the Latin Alphabet."
2. The transliteration of Zelenskyy's last name is nonstandard, but is used by the presidential administration.

## *Chapter 1*

1. The literature on democratic transition and consolidation is extensive. A good starting point for a review of the extant research is the *Oxford Bibliographies* entries: "Democratization," <https://www.oxfordbibliographies.com/view/document/obo-9780199756223/obo-9780199756223-0016.xml> and "Democratic Consolidation," <https://www.oxfordbibliographies.com/view/document/obo-9780199756223/obo-9780199756223-0224.xml> (accessed June 25, 2019).
2. See the discussion of "accountable" and "accountability" in the *Oxford English Dictionary* (<http://www.oed.com/view/Entry/1198?rskey=29xTm7&result=2#eid432112132>).
3. The full text of the Code of Hammurabi is available on the Gutenberg Project (<http://www.gutenberg.org/files/17150/17150-h/17150-h.htm>). An earlier code, the Code of Ur-Nammu (ca. 2050 BCE), identifies penalties for criminal acts, but does not specifically articulate rules for officials (<http://www.ancient.eu/Ur-Nammu/>).

4. Citizens could face trial by juries that voted on guilt or innocence. In Aeschylus's *The Eumenides*, Orestes is ultimately acquitted of his mother Clytemnestra's murder by a single vote cast by the goddess Athena.
5. Mainwaring and Welna (2003) characterize these different types of accountability as "electoral" or "intrastate."
6. In Dahl's conceptualization, polyarchy is an imperfect form with democracy as the unreachable ideal or Platonic form.
7. Russian and Ukrainian language reference sources do not trace the historical usage of these terms earlier than the twentieth century, but they also do not provide a complete assessment of terms over time, according to the Slavic Reference Service, University of Illinois (email exchange with Joe Lenkart, November 2017).
8. The anecdote is from Massie (1980).
9. While Ledenevas focus is postcommunist Russia, the observations apply to Ukraine as well.
10. Informal norms are not necessarily corrupt, but corruption often infiltrates governance through this route. For example, deference to seniority in allocating legislative committee positions is often an informal intraparty norm, but is not at its core a corrupt practice.
11. See [http://articles.latimes.com/1997-06-23/news/mn-6203\\_1\\_justice-minister](http://articles.latimes.com/1997-06-23/news/mn-6203_1_justice-minister) for a press account of the event.
12. While acknowledging the existence of an informal sector, most approaches emphasize accountability flowing through formal institutional arrangements. By contrast, some scholars have emphasized accountability in informal politics. Roeder (1993) explains the collapse of the USSR as an institutional failure, due in part to ineffective accountability associated more with unofficial norms than codified laws.
13. Jones Luong (2002) specifically addresses variation in power between actors in bargaining.

14. This observation begs the question: how do we know which actors have more power and authority over others? One source of information about relative levels of authority is the set of formal institutional rules that define the roles and responsibilities of political actors and (sometimes) the rights and opportunities of nongovernmental actors. For example, in a separation-of-powers system that has a directly elected president and legislature, the president is typically thought to hold the most power and authority. Presidential powers vary (Shugart and Carey 1992), and weak presidents may not have the power to effectively check the behavior of other political actors. Strong presidents endowed with powers such as legislative initiative and decree rights would generally exert more authority than other elected officials and could be situated at the top of the hierarchy. A formal organizational chart may not exist, however, even though roles are clearly defined and participants know who has more (or less) authority. Traditional organized-crime networks typically have a primary boss (a don) and figures subordinated to the boss, serving as advisors (*consigliere*), enforcers (*capos* and their minions), informants, or tribute-paying associates with their own networks. The don's primacy is understood and upheld not only by tradition, but by the don's capability to command loyalty, reward allies, and punish enemies.

15. One could argue that the ability of one actor to ask questions of another implies that the questioner has more power. In terms of that specific relationship, the observation may hold. However, I am speaking in this case of the general position of the actor in the administrative architecture of the state. Actors with equivalent authority, say two members of the legislature, would be considered to have equal power even if one actor calls for investigation of the other.

16. See the World Bank's (N.D.) note on accountability: <https://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf> (date accessed, February 27, 2017).

17. Constitutional changes in Ukraine have altered this relationship, with the prime minister and cabinet currently depending on legislative support rather than presidential support.

18. Personal conversation with a former member of parliament representing Tatarstan in 1999. According to this individual's account, President Minitimer Shaimiev hoped to invalidate the constitutional referendum vote in Tatarstan due to low turnout. He was reportedly dissatisfied with the allocation of power to the regions. The effort was successful locally; turnout was so low that results were not valid and by-elections were held for parliamentary seats that were held concurrently with the constitutional vote.

19. Personal conversation with a university faculty member from Crimea, Ukraine, in 2006.

20. The most widely cited work on horizontal accountability identifies two approaches to oversight: "police patrols" and "fire alarms" (McCubbins and Schwartz 1984). The former mechanism describes circumstances in which the organization exerting oversight selects a sample of activities for inspection, conducts its assessment, and remedies any violations. The potential for oversight also serves as a deterrent to inappropriate behavior. The latter mechanism describes circumstances in which the overseeing organization facilitates monitoring by third parties, who report any violations through a formalized arrangement. Reports of violations are investigated and addressed by the organization with oversight responsibilities.

21. Ferejohn (1999, 134) makes this point, noting that "Congress is not as informationally disadvantaged as is the electorate with respect to government institutions. Thus, one would expect that Congress would be relatively more successful in controlling agencies than voters are in controlling electoral officials."

22. Parliamentary questions may be formalized into an event such as "Question Time" in which the prime minister responds to questions from majority and minority legislators at an open session of the parliament, or they could be directed to other actors in government through official announcements or filings. Typically, the right to ask questions is accompanied by an expectation that the questions will be answered.

23. In the Ukrainian context, members of parliament are empowered to direct questions to agents of the executive branch, local government, or other organizations, and the targets of questions are obligated to respond. While the effectiveness of this tool varies, it was used extensively by Ukraine's opposition prior to and following the Orange Revolution (Herron and Boyko 2015).

24. This phenomenon has been identified in mixed-member electoral systems as well, with “zombie” candidates gaining party-list seats after failing to secure constituency seats. The discussion of “zombies” has been especially prominent in Japan, although the problem could emerge in any system where simultaneous contestation of the party list and constituencies is permitted. Ukraine's Constitutional Court outlawed the practice of dual candidacy, although it was a feature of the 1998 elections. Some candidates in 2002 sought safe havens in concurrently held local elections. For example, Eduard Hurvits contested as a mayoral candidate in Odesa and as a party-list candidate for Our Ukraine. He lost the mayor's race and served in the Rada.

## *Chapter 2*

1. However, it is widely accepted practice for former legislators, for example, to take advantage of their networks and experience to earn money after leaving office. While this does not constitute the use of the public office for private gain at the time the individual occupies it, the public office was instrumental in providing a mechanism for private gain.

2. At least in the U.S. context, presidents have traditionally placed their business interests in a blind trust or employed some other mechanism to avoid the appearance that they are using the office for personal gain. President Donald Trump did not follow this traditional practice, however.

3. See <http://www.transparency.org/what-is-corruption/>

4. Treisman (2007) unequivocally includes the individual and groups related to the individual.

5. The authors provide an example from the context of the United States. Citing Lessig (2011), they suggest that campaign contributions for judicial candidates could be considered corrupt if judges alter their approach to interpreting the law due to these contributions. The “sin” in this case is not just the quid pro quo, but the damage to the judiciary.
6. Another critical issue is to understand how citizens experience and interact with corruption. Some research has distinguished between on-the-ground experiences with corrupt behaviors, such as individuals being coerced to pay bribes to access public services, and general perceptions of a corrupt environment (Klasnja et al. 2016).
7. While the author focuses on Russia, the techniques seem to be present in Ukraine as well.
8. See Ledeneva (2006, 100-101) for examples.
9. The indexes emphasize different features associated with standard definitions of democracy. While Ukraine’s assessments vary among these measures, they are generally consistent.
10. While the OSCE did not specifically designate the elections “free and fair,” they noted that the contests were “conducted mostly in line” with OSCE expectations. The evaluations of these elections were stronger than for previous elections in Ukraine. See the OSCE reports on 2006 ([https://www.osce.org/odihr/elections/ukraine/eoms/parliamentary\\_2006](https://www.osce.org/odihr/elections/ukraine/eoms/parliamentary_2006)) and 2007 (<https://www.osce.org/odihr/elections/57941>).
11. While the Index has been criticized for methodological flaws (see, for example, Thompson and Shah 2005 and Treisman 2007), some research suggests that it tracks closely with objective measures of corruption (DeVries and Solaz 2017).
12. In a survey conducted in 2015, for example, the International Foundation of Electoral Systems found that 57% of respondents identified the courts as corrupt, 42% identified parliament, and 32% identified the police.

13. See Bueno de Mesquita et al. (2003) for more about this concept.
14. Gallagher and Hanson (2015, 369) review the history and application of the concept, noting that it was adopted by scholars of the Soviet Union in the 1970s from studies of the “least democratic aspects of political systems.”
15. Italics are mine, not in the original.
16. “Political Report of the CPSU Central Committee to the 27th Party Congress,” 1986. Available online: <http://bit.ly/2BF92Lj>
17. Soviet elections used a “negative ballot” that required voters to cross off the names of candidates they did not support. During most of the Soviet period, only one candidate’s name appeared on the ballot. Marking the ballot thus showed that a voter was voting against the party candidate, a risky form of dissent.
18. *Materialy XIX Vsesoyuznoi konferentsii Kommunisticheskoi partii Sovetskogo Soyuzu*. 1988. Moscow: Politizdat.
19. Ukraine’s territory was not fully incorporated into the Soviet Union until post-World War II annexations formalized the deal between Nazi Germany and the Soviet Union that divided Central and Eastern European territories (the Molotov-Ribbentrop Pact). The 1945 annexation covers Western Ukraine.
20. David Remnick colorfully describes these events in *Resurrection* (1997).
21. It is also critical to note that Russia’s preferences changed over time. Under Boris Yeltsin, Russia adopted a less aggressive orientation toward Ukraine than it has under Vladimir Putin.
22. See <https://www.rferl.org/a/1057789.html>
23. See <https://rg.ru/2005/07/13/yanukovich.html>

24. See the Law on the Anti-Corruption Bureau of Ukraine (<http://zakon0.rada.gov.ua/laws/show/1698-18>), enacted on October 14, 2014.
25. See [https://nabu.gov.ua/sites/default/files/report\\_2017\\_1.pdf](https://nabu.gov.ua/sites/default/files/report_2017_1.pdf)
26. See <https://nabu.gov.ua/en/novyny/attempts-limit-independence-nabu-will-cause-irreversible-consequences-fight-against>
27. See media reports, including <http://www.newsweek.com/poroshenko-tar-geting-ukraines-anti-corruption-campaigners-773212> and <https://www.rferl.org/a/ukraine-saakashvili-banned-until-2021/29055308.html>

### *Chapter 3*

1. This assessment of election fraud is not intended to diminish the negative impact of attempts to manipulate elections that are not decisive. But reports from free and fair elections all over the world regularly record anecdotes of illicit voting, voters casting more than one ballot, voters pressuring other voters, or other violations of election laws. These incidents, while important, do not undermine election outcomes if they are not also large-scale and systematic.
2. It is important to note that the “right” or “wrong” victor is determined endogenously by the rules. That is, applying alternate rules to election results may produce a different result than the official results generated. While partisans may argue that the winner is the “wrong” candidate, this is only the case in the context of this chapter if distortions to the votes, the vote count, or the application of the rules produce a different winner. Circumstances such as the United States presidential elections in 2000 and 2016, in which the winner of the Electoral College did not also win the national popular vote, are not examples of the “wrong” candidate winning under this interpretation.
3. That is, in standard presidential systems. In some forms of semipresidential systems, like the one currently operational in Ukraine,



cabinets are formed by the governing coalition of parliament. See Shugart and Carey (1992) for a detailed discussion of forms of presidential rule.

4. The selection of executives varies substantially cross-nationally. As I noted in chapter 2, Ukraine has a directly elected president who at times had primary responsibility for selecting the cabinet. However, this responsibility has been shifted to parliament, altering the identity of actors in the principal-agent relationship.

5. The previous chapter covered issues related to the overall political system in detail, and chapter 6 intensively probes the election administration system.

6. See, for example, Federal Election Commission (1990) and CSCE (1992).

7. For more details on these data and additional analysis, see Herron and Sjo-berg (2016).

8. The question wording slightly changed. In this survey, respondents reacted to the statement “Voting gives people like me an influence on decision-making in Ukraine.”

9. While the 2019 results are encouraging, they could reflect a short-term optimism brought about by the election of Volodymyr Zelenskyy.

10. See <https://www.electoralintegrityproject.com/the-year-in-elections-2017>

11. The study probed a nationally representative sample of election officials in panel surveys, with 2,020 respondents in the pre-election poll and 1,758 in the postelection poll.

12. The follow-up study was funded by a grant from the United States Department of Defense Minerva Research Initiative (N00014-19-1-2456). The survey instrument asked similar questions to the 2014 survey, but was streamlined and presented to 101 election officials in Cherkasy, Chernihiv,

Kyiv, Kharkiv, L'viv, Nova Kakhovka, Odesa, and Severodonetsk prior to the 2019 elections.

13. The question asked respondents to rate, on a scale from 0-10, how well prepared they believed their polling place to be for election day. Fifty-one percent of respondents rated their polling place at 7 or higher.

14. The elections in 1994 are an exception. I obtained those results from the CEC through a personal connection.

15. The only exception is Our Ukraine's vote totals in embassies and consulates abroad.

16. Ten polling places in Georgia reported turnout in excess of 100%. It is possible that these results were errors, or efforts to manipulate the votes. Including them in the data set does not alter the distribution, however. They are excluded in this analysis.

17. In addition to geographically defined constituencies, the Congress also reserved seats for organizations. See Herron (2009) for more details.

18. See <http://www.nytimes.com/1989/05/31/world/soviet-tv-s-biggest-hit-200-million-watch-political-drama.html>

19. To win a seat, a candidate was required to garner 50% + 1 of the vote. If no candidate reached this threshold, a second round would be held between the top two vote-getters from the first round.

20. Some scholars treat the 1991 presidential election as the founding election (e.g., Birch 1995). Ukraine declared independence in August 1991; the subsequent referendum preceded the formal dissolution of the USSR by a few weeks in December 1991. I treat the 1994 elections as "founding" elections because they were the first held under the control of a formally independent Ukraine, free from any connection to the USSR because it no longer existed as a political entity.

21. This practice would continue in later elections with "technical parties." In the 2014 parliamentary elections, 40 elected deputies who were

formally “independent” had been elected as nominees of the Party of Regions in earlier elections (<http://www.pravda.com.ua/rus/articles/2014/11/18/7044545/>). The unaffiliated option allowed them to obscure their connections with the Party of Regions after it had fallen out of favor.

22. Voters could effectively choose an “against all” option by crossing off all candidates on the ballot. Exercising this right in the second round kept some candidates from gaining a majority and passing the required threshold to earn the seat.

23. Author interview with Oleksandr Lavrynovych, 1999. At the time, Lavrynovych was a deputy associated with the People’s Movement.

24. However, constitutional reform was enacted as part of the negotiated settlement at the time of the Orange Revolution in late 2004.

25. The 2015 local election law changed after the campaign had officially begun. In most cases, the laws were amended less than one year prior to the election.

26. For a description of similar systems, see Nathan Allen’s chapter on Indonesia in Herron, Pekkanen, and Shugart (2018), the discussion of Slovenia in Cox (1997), and the discussion of Denmark in Gallagher and Mitchell (2005).

27. See [https://zn.ua/POLITICS/rada-prinyala-novy-izbiratelnyy-kodeks-s-prohodnym-barerom-v-5-323392\\_.html](https://zn.ua/POLITICS/rada-prinyala-novy-izbiratelnyy-kodeks-s-prohodnym-barerom-v-5-323392_.html) for a discussion of the law.

28. See Hale (2006) for a description of this phenomenon in Russia. It was similar in Ukraine.

29. For my purposes here, gained five seats or more.

30. Tkachuk et al. (2000) also include the Progressive Socialist Party of Natalya Vitrenko. The PSP did not participate in the 1994 elections and was arguably less programmatic and more personality-driven.

31. The merger attempt was deemed unlawful by the Ministry of Justice.

32. Respondents were also asked about post-Euromaidan reforms. No reform was identified as a success by a majority of respondents: 36% indicated that defense reforms were a total or partial success, 33% identified decentralization, 22% decom-munization, 16% education and science, 12% health care, 8% pension reform, 4% judiciary, and 3% corruption.

33. This chapter has emphasized national elections, but local elections are also important. The 2010 and 2015 local elections produced problems in certain regions. As an election observer in Odesa for both elections, I witnessed efforts to commit fraud. However, contemporaneous observer reports from across the country suggest that these problems, although intense, were isolated.

#### *Chapter 4*

1. See <https://nabu.gov.ua/>. The data are from the last access on August 9, 2019.

2. Research on the dynamics of interbranch relations has addressed how key positions are appointed (Atkinson and Nossal 1980; Neto and Strom 2006), how domestic divisions affect foreign-policy outcomes (Hazan 1997; Neto and Strom 2006), and how oversight is connected with interbranch relations (Rockman 1984).

3. At least five types of interactions typify legislative-executive relationships (King 1976). Coalition formation and management are mediated through interparty relationships. The interaction between ministers and backbenchers within governing parties typifies interparty relationships. Efforts to produce policy that unites government, backbenchers from the ruling party, and the political opposition are characterized as cross-party relationships. Efforts to constrain government involving backbenchers from governing parties and the opposition are nonparty relationships. Finally, conflicts between governing and nongoverning parties are managed through opposition relationships. This chapter's assessment of horizontal accountability especially relies on

the last two relationships as both emphasize constraining government actions.

4. Some research on Ukraine has noted the role of the courts in mitigating interbranch conflict. For example, Brown and Wise (2004) discuss how the Constitutional Court of Ukraine served in this capacity.

5. Some scholars called Ukraine superpresidential, although its classification was more ambiguous than other post-Soviet cases (Ishiyama and Kennedy 2001). In a study of post-Soviet presidencies, Ukraine was ranked as the eighth strongest based on its initial constitutional provisions (Frye et al. 2000).

6. See Chaisty and Chernykh (2015) for a discussion of presidential efforts to build coalitions in the legislature throughout the post-Soviet period.

7. The *Reglament* is the set of internal rules and procedures for parliament.

8. The referendum would have strengthened presidential powers vis-a-vis parliament, eliminated parliamentary immunity, changed the assembly size to 300, and created a bicameral legislative body.

9. In a challenge to the efficacy of questions as a meaningful method of accountability, Helms (2009) suggests that these tools are a “pointless exercise” because the targets may or may not adequately answer the requests. However, directing attention to the activities of an institutional actor who may be “misbehaving” raises elite awareness, if not public awareness. As such, they constitute an accountability tool, but perhaps a weaker form of accountability than other mechanisms.

10. The “Orange” opposition parties are Bloc of Yuliia Tymoshenko, Our Ukraine, Party of Reforms and Order, and the Socialist Party of Ukraine. The “Blue” progovernment parliamentary parties are Labor Ukraine, Party of Industrialists and Entrepreneurs, Party of Regions/Regions of Ukraine, People’s Democratic Party, Social Democratic Party of Ukraine (United), and United Ukraine. The remaining

parliamentary parties did not display clear tendencies toward one camp or another. For example, the Communist Party of Ukraine opposed the Kuchma regime, but did not maintain an alliance with “Orange” forces.

11. Abromavicius announced his intention to resign prior to Groysman’s government coming to power. Groysman also appointed outsiders to his cabinet to advance reform efforts, notably the US-born Ulana Suprun as acting minister of healthcare.

12. For the text of the law, see <http://zakon0.rada.gov.ua/laws/show/1698-18>

13. See <https://nabu.gov.ua/>

14. See [https://nabu.gov.ua/sites/default/files/reports/zvit\\_ii\\_pivrichchya\\_eng\\_2017\\_1.pdf](https://nabu.gov.ua/sites/default/files/reports/zvit_ii_pivrichchya_eng_2017_1.pdf)

15. See <https://nabu.gov.ua/en/novyny/statement-regarding-invasion-nabus-office-provo-cateurs>

16. While the business sector may be a cohesive interest group in some democratic societies, especially those associated with corporatism, business sector elites in Ukraine have diverse interests. I use the term “sector” not to imply cohesion, but to identify a subset of actors whose interests are especially focused on the interaction between politics and economic activity.

17. Albeit, sometimes formal.

18. See <https://www.kyivpost.com/ukraine-politics/black-ledger-investigation-appears-come-halt.html>

19. See <https://nabu.gov.ua/node/2692>

20. See <https://nabu.gov.ua/en/novyny/statement-regarding-information-role-national-bureau-investigation-paul-manafort-disseminated>

1. See [https://www.washingtonpost.com/news/democracy-post/wp/2018/06/18/my-goal-is-to-defeat-corruption-in-ukraine/?noredirect=on&utm\\_term=.795fc27169d6](https://www.washingtonpost.com/news/democracy-post/wp/2018/06/18/my-goal-is-to-defeat-corruption-in-ukraine/?noredirect=on&utm_term=.795fc27169d6)
2. See, for example, <https://www.rferl.org/a/ukraine-poroshenko-anticorruption-denies-interference/28905365.html>
3. See the World Bank (n.d.) for a discussion. <https://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf>
4. Polese (2009) addresses disputes about the exact date when PORA was founded.
5. Polese (2009) notes that two PORA organizations coexisted simultaneously.
6. See the report at *Zerkalo Nedeli* from August 2018 ([https://zn.ua/SOCIUM/nadezhda-i-vera-bez-otvetstvennosti-ili-sociologicheskaya-diagnostika-ukrainskogo-obschestva-292415\\_.html](https://zn.ua/SOCIUM/nadezhda-i-vera-bez-otvetstvennosti-ili-sociologicheskaya-diagnostika-ukrainskogo-obschestva-292415_.html)).
7. Putnam was especially interested in the decline of social capital, linked to participation in groups.
8. Independent candidates also face ballot access barriers. However, they do not register as organizations.
9. See, for example, <https://www.rferl.org/a/ukraine-secret-payments-evi-dents-manafort/27933901.html>
10. CVU notes that since its founding in 1994, its activities have expanded to include monitoring of elected officials and institutions, publicizing corruption, and helping local governments develop procedures. In short, CVU engages in the kinds of activities characteristic of the public side of diagonal accountability.
11. See [http://cvu.org.ua/uploads/3BiT%20KBy\\_geHb%20roAocyBaHHfl.pdf](http://cvu.org.ua/uploads/3BiT%20KBy_geHb%20roAocyBaHHfl.pdf)

12. The Ushahidi platform is open-source and was initially designed to collect crowdsourced evidence of violence following the 2007 elections in Kenya. It has been subsequently used to gather publicly provided data on a number of issues all over the world, including election violations in Ukraine.

13. The law “On the Status of People’s Deputies of Ukraine” notes that deputies are obligated to personally participate in meetings and vote (chapter III, 3-4).

14. The registry is available on the Verkhovna Rada’s website, with entry points in the calendar. An example is here:

[http://w1.c1.rada.gov.ua/pls/radan\\_gs09/ns\\_h2?day\\_=27&month\\_=11&year=2014&nom\\_s=1](http://w1.c1.rada.gov.ua/pls/radan_gs09/ns_h2?day_=27&month_=11&year=2014&nom_s=1)

15. It is possible that this method could yield false negatives and positives. But, as I note below, many of the legislative records match NGO observations.

16. See <http://knopkodavy.chesno.org>

17. See <http://zik.ua/en/news/2011/04/23/284394>

18. See the interview with Mykola Tomenko:  
<http://www.pravda.com.ua/rus/news/2016/02/1/7097510/>

19. This chapter includes a partial assessment of the votes in this time period. For a more thorough analysis, see Herron, Fitzpatrick, and Palamarenko (2019).

20. For each electronic roll-call vote, the written registration was compared to the electronic vote. If a legislator was recorded as absent but cast a “yes” vote, the instance was coded as an affirmative proxy vote. If a legislator was recorded as absent, but cast a “no” vote, the instance was coded as a negative proxy vote. I focus on affirmative proxy votes in this chapter because they are used to pass legislation.

21. See <http://www.pravda.com.ua/news/2015/12/25/7093686/>



22. Parliament requires a majority of the assembly size (450) to pass legislation: 226 affirmative votes. With many seats unfilled due to the annexation of Crimea and occupation of parts of Donbas by Russia, and the problem of absenteeism, mobilizing 226 votes is a serious challenge.
23. The calculations only include legislators for whom full biographical data are available.
24. See <https://pl.com.ua/artem-sytnik-vikoristannya-chuzhoyi-kartki-dlya-golosuvannya-ne-ye-sluzhbovim-pidlogom/> for a brief story about Berezyuk's complaint and the anticorruption bureau's reply that the matter was political in nature.
25. Of the 102 cases, I have full registration and voting records from the dates on which 91 of the alleged cases occurred.
26. Because a deputy may proxy-vote for multiple deputies on the same vote, and because some videos contain multiple votes, the eighty videos show eighty-seven instances of proxy voting that we could identify.
27. Recall that morning and evening sessions occur; we cannot be sure in all of the videos when the video was recorded. In nineteen of the cases (22%) using morning registration, we could reasonably match the action with a "victim" of proxy voting using the seating chart published on parliament's website. In thirty-three of the cases (38%) using evening registration, we found matches. In the remaining fifty-four cases, our failure to find a match could be due to several possibilities.
28. For full disclosure, the author is a research associate of CIFRA and has collaborated with its founder and chief executive officer since 2007. More information is available at <http://cifragroup.org>

## *Chapter 6*

1. The branches required to approve laws vary cross-nationally. In the case of Ukraine, the key institutions are the unicameral parliament (Verkhovna Rada) and president.

2. Weber also notes that ownership and management are separated.
3. The temporary aspect of the position limits an individual's ability to develop expertise (Gailmard and Patty 2007).
4. This chapter uses several terms to describe election competitors who misrepresent their intentions in the electoral process. In most cases, these competitors are labeled parties—and I call them *technical parties*. In presidential elections and in some cases in parliamentary elections, however, the competitors are *technical candidates*. In many cases, I label them in a collective sense as *technical competitors*. For ease of reading, however, I often use the term *technical parties* when the scenario could also encompass candidates.
5. Details about the composition and responsibilities of electoral commissions are located in several statutes. See the Law on Central Electoral Commission ([http:// zakon2.rada.gov.ua/laws/show/1932-15/print1443087113377542](http://zakon2.rada.gov.ua/laws/show/1932-15/print1443087113377542)). Also see the Law on the Election of the President of Ukraine (<http://zakon4.rada.gov.ua/laws/show/474-14>) and the Law on the Election of People's Deputies of Ukraine ([http:// zakon5.rada.gov.ua/laws/show/4061-17](http://zakon5.rada.gov.ua/laws/show/4061-17)) for more details.
6. In some cases, these units are labeled Territorial Election Commissions. The borders generally overlap, but DEC's tend to describe commissions that also have constituency races, whereas TECs describe the same spatial units but do not have constituency races. DEC's are more typically found in parliamentary elections, and TECs in presidential elections.
7. In presidential elections, all candidates may have representatives on the PECs. In parliamentary elections, a lottery is used to allocate positions.
8. Over 30,000 polling places were identified for each nationwide election since 1998.
9. As an example, Ukraine's 2014 parliamentary elections had 3,712 district commission members. See <http://www.cvk.gov.ua/pls/vnd2014/wp055?PT001F01=910>

10. The surveys, described in Herron and Boyko (2015) and Herron, Tunberg, and Boyko (2015), included questions that specifically addressed compensation— official and unofficial—as well as the methods of mobilization.
11. Of the respondents, 6.6% found it “difficult to say.”
12. Correspondence with Nazar Boyko, CIFRA Group, September 19, 2015.
13. Only 2.4% found it to be “completely satisfactory.”
14. The remainder found it to be neither satisfactory/unsatisfactory (10.2%) or did not reply (7.5%). Results were similar when respondents were asked how they personally found compensation.
15. These results are from the pre-election poll. The postelection poll was equivalent, with 26.8% reporting that compensation was completely or somewhat sufficient, 46.9% reporting that compensation was completely or somewhat insufficient, and the remainder reporting that it was neither sufficient nor insufficient (7.1%) or not responding (19.2%).
16. The follow-up was a small replication study, with 101 respondents in selected regions of the country.
17. Because this question is a sensitive item—side payments are not supposed to occur—it is likely that respondents underreport this activity.
18. In the postelection survey it was important or very important to 52.8% of respondents.
19. That they did not receive supplementary compensation was indicated by 26.8% of respondents.
20. See Boyko and Herron (2015) for a more detailed description of the lottery.
21. See especially the discussion on page 92 in Wilson (2006).

22. See, for example, the assessments of political consultants (<http://polittech.org/2012/10/04/eksperty-texnicheskie-partii-na-ukraine-soberut-5-10/>). In the scholarly literature, researchers have adopted terms from the press to identify candidates whose names are identical as “clones” (Herron 2009).
23. A brief interview with the then-deputy chairman of the Central Electoral Commission noted the connection between technical parties and administrative manipulation (<http://glavnoe.ua/news/n106042>).
24. The choice of one or two standard deviations above the mean, to a certain degree, is arbitrary. The use of this measure is based on assumptions about the data’s distribution and the likelihood that data fall within a particular range. Under a normal distribution, one standard deviation from the mean covers 68% of the data; two standard deviations cover 95% of the data. The purpose of using this measure is to develop a “cutoff ” for connections that are more exclusive. Even in the more relaxed measure (one standard deviation), the parties included in the classification are more extreme in their personnel transfers (and exclusivity) with the alleged patrons than with many other competitors.
25. See Boyko, Herron, and Sverdan (2014) for more details.
26. These candidates exceeded two standard deviations from the mean in their exchanges. See Boyko, Herron, and Sverdan (2014) for details.
27. The estimates for the 2010 elections are based on models of candidate performance that control for officer affiliation (chairs in Round 2). The estimates for the 2012 elections are derived from Boyko and Herron (2012). They constitute the difference between predicted results with no affiliated officers and all affiliated officers (setting most coefficients at their mean values). The estimated effect for Poroshenko in the 2014 presidential election is based on Boyko, Herron, and Sverdan (2014). It uses the values associated with officer affiliations, taking the difference between the effect of no affiliated officers and all affiliated officers. The results for the 2014 parliamentary elections are based on Herron, Boyko, and Tunberg (2015). The data combine a survey of election officials with election results and are based on reported officer affiliation.

## Chapter 7

1. Ukraine was rated 130 out of 180 countries in Transparency International's 2017 Corruption Perceptions Index ([https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017)), tied with Myanmar and Sierra Leone.
2. The National Anticorruption Bureau of Ukraine reports on legal cases filed for violations of e-declaration reporting. See <https://nabu.gov.ua/en/tags/e-declaration>
3. In the 1990s, many scholars wrote about the economic transition. I draw especially from Campbell (1991) for this description. He does not discuss the Ukrainian case in particular, but addresses the general features of economic transition.
4. See <https://www.kyivpost.com/ukraine-politics/new-panama-papers-documents-show-poroshenkos-offshore-firm-targeted-in-money-laundering-case.html?cn-reloaded=1> and <https://www.kyivpost.com/ukraine-politics/poroshenko-leads-ukraine-offshore-paradise-papers-poroshenko-lawyers-deny-charges.html?cn-reloaded=1>
5. Onuch (2014, 50) notes that the largest group of protesters in the Revolution of Dignity included those who were motivated by the desire to live in a “normal, European democracy.”
6. IFES conducts regular public opinion polls in Ukraine to assess citizen orientations toward political, economic, and social conditions. See <http://www.ifes.org/surveys/september-2015-public-opinion-survey-ukraine>
7. These negative attitudes have long been present. A 2002 IFES survey asked respondents how often specific types of corrupt behaviors occur and whether or not they could be justified. A majority of respondents felt the following behaviors were common and could not be justified: claiming benefits illegally, bribing teachers, buying votes, nepotism, taking bribes,

using public monies for private benefits, and improperly benefiting from privatization (Sharma 2003).

8. Respondents were asked “How widespread is corruption in the following levels of government?” The specific coding methodology is not described in the KIIS report, but the text implies that it is based on a Likert scale, with the proportions including those who replied that corruption is widespread.

9. More recent surveys continue to support the negative orientation of respondents. In its November 2016 survey, held just after the e-declarations were first submitted, KIIS found that 66% of respondents indicated that “corruption in high places” was responsible for the bad social and economic situation. <http://kiis.com.ua/?lang=rus&cat=reports&id=660&page=1&t=1>

10. The per capita GDP was around 67,000 UAH at the time the e-declaration data were collected. See <https://data.worldbank.org/indicator/NY.GDP.PCAP>. CD?view=chart&year\_high\_desc=true

11. See [http://www.ukrstat.gov.ua/imf/arhiv/zp\\_e.htm](http://www.ukrstat.gov.ua/imf/arhiv/zp_e.htm)

12. Many officials report no cash-in-hand. It is possible that these officials have little or no savings. It is also possible that liquid assets are underreported.

13. See <http://zakon2.rada.gov.ua/laws/show/1700-18>

14. See <https://nazk.gov.ua/zakonodavstvo-0>

15. See <https://nazk.gov.ua/>

16. See <https://public.nazk.gov.ua/>

17. I compiled data on holdings in Ukrainian hryvnia, euros, and U.S. dollars, converting them to the value of Ukrainian hryvnia in October 2016, the month in which the declarations were filed. Declared wealth in other currencies was omitted.

18. In this analysis, I include assets declared outside of Ukrainian government control alongside assets in foreign countries. This distinction primarily affects assets in Crimea. While Russia's annexation of Crimea renders it an occupied territory of Ukraine, properties located on its territory are de facto under the control of a foreign government.
19. This edited volume provides a nuanced set of accounts about women politicians seeking elected office in several postcommunist states.
20. Schulz and Frank (2003) found no gender difference in low-risk scenarios, but found a difference in high-risk ones.
21. The large number of zero entries lower the mean values. In later multivariate analyses, I include only those reports with nonzero entries.
22. The gender of respondents was coded by using the patronymic suffix, with feminine endings coded as women.
23. I report robust regression results in the analysis. I also conducted robustness checks with standard regression and tobit because the dependent variable does not have negative values. The additional specifications yielded similar results.
24. Coefficients for officials in the office of the president and prosecutor are not statistically significant.
25. See <https://www.rferl.org/a/ukraine-poroshenko-rferl-investigation-spanish-villa/28116608.html>
26. See <https://www.pravda.com.ua/articles/2015/09/18/7081809/>
27. See <https://www.rferl.org/a/tables-turned-on-anticorruption-activists-in-ukraine-/29145613.html>

## *Chapter 8*

1. Holland investigates a different manifestation of the problem in Latin America, focusing on circumstances in which governments selectively

enforce laws to gain electoral advantage among those who benefit from forbearance.

2. See the Prozorro system of online procurement for a direct example (<https://prozorro.gov.ua/>).
3. Kyrgyzstan is the strongest performer in Central Asia, reaching the level of Georgia, Moldova, and Ukraine in certain measures and at certain times.
4. This observation is generally consistent regardless of the measure. PostSoviet states exhibit variation in democratic performance over time and by index using V-Dem data (<https://www.v-dem.net/>). Countries such as Uzbekistan and Turkmenistan, for example, are authoritarian regardless of the measure or time period. Other countries change; Russia begins in the “gray zone” and declines over time along with Armenia.
5. See <http://www.nytimes.com/2004/04/07/world/lithuanian-parliament-re-moves-country-s-president-after-casting-votes-three.html?pagewanted=1>
6. See <https://jamestown.org/program/latvian-financial-corruption-scandals-open-opportunity-russian-information-warfare/>
7. While the resolution passed with 70 yes votes, 77 members abstained (26 voted no). See <https://www.rferl.org/a/un-general-assembly-crimea-russia-rights-abuses/28186797.html>
8. For example, as I noted in chapter 3, vertical accountability is impeded because seats are allocated in parliament to districts that cannot feasibly elect representatives due to occupation. This is just one case in which the status of the occupied territories influences accountability reforms.
9. For example, the Baltic states enjoyed an early technological edge in the development of information technology (Herron 1999).
10. See, for example, Lane (2000) for a description of the two approaches.



11. Notably, the formation of special, independent anticorruption bodies was not supported by all European advisors, but was advocated by an advisor who had been active with Hong Kong's Independent Commission Against Corruption.
12. Estonia is ranked 21st in the world in the 2017 Corruption Perceptions Index, outperforming all other postcommunist states ([https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017)).
13. Anticorruption strategic plans are available online at <https://www.korrupsioon.ee/en>
14. Light (2014) reports higher dismissal figures.
15. Further, as Di Puccio (2013) indicates, developing a consistent set of success criteria among international and domestic actors is important for progress.
16. Anticorruption reports by the government suggest that attitudes tolerating corruption persist. See <https://www.korrupsioon.ee/en>
17. This observation comes from conversations with students on study-abroad visits to the United States as well as students in several post-Soviet countries with whom I interacted on visits to their universities.
18. The source of this observation is similar to that noted in the footnote above. The phenomenon is akin to the story that Miller (1992) tells of the new factory worker confronting veterans.
19. Personal conversation with a candidate and campaign manager for Servant of the People in Kyiv on July 20, 2019.
20. Despite the complexity of the tasks, PECs are generally overstaffed to accommodate party representation. They could effectively function with fewer commissioners in most cases.

21. The irony of this suggestion is not lost on the author, and speaks to the attraction of some shortcuts to creating functional institutions. Nevertheless, buy-in by powerful oligarchs seems to be a critical step and one that will inevitably involve uncomfortable compromises.

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